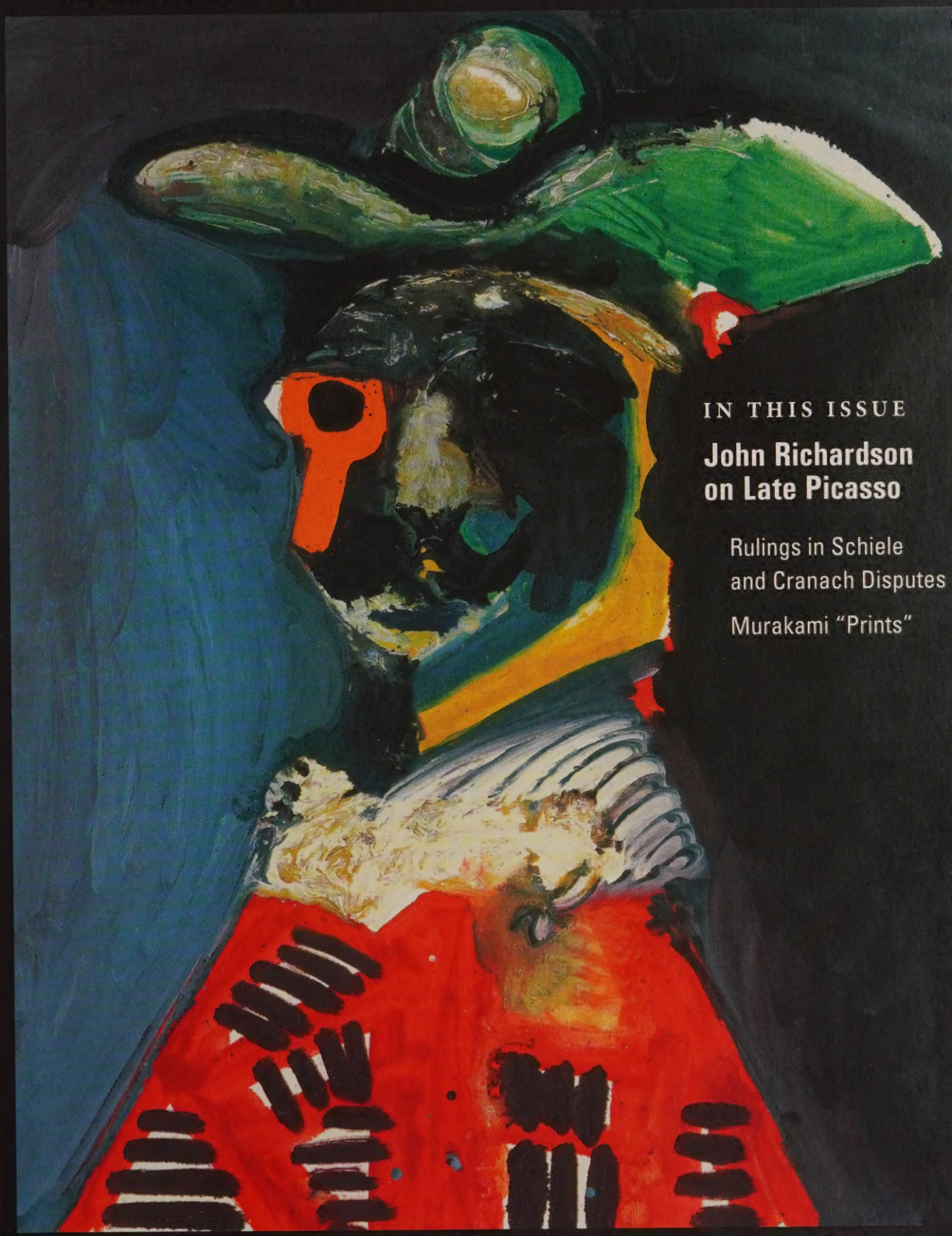
VOLUME 11 NUMBER 2 2009

IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH



IN THIS ISSUE

John Richardson on Late Picasso

Rulings in Schiele and Cranach Disputes

Murakami "Prints"

INCORPORATING **STOLEN ART ALERT**

IFAR Journal, ISSN 1098–1195, is published quarterly by the International Foundation for Art Research, Inc., 500 Fifth Avenue, New York, NY 10110. Subscription rates are $75 per year. POSTMASTER: Send address changes to the International Foundation for Art Research, Inc., 500 Fifth Avenue, New York, NY 10110.

© 2009 IFAR, Inc. All rights reserved. No part of the contents may be reproduced without the written permission of IFAR. The opinions expressed by the authors in *IFAR Journal* are not necessarily those of IFAR. Publication of advertisements does not imply endorsement by IFAR.

EDITOR-IN-CHIEF: Sharon Flescher
EDITOR: Kathleen Ferguson
DESIGN: Ana Lucía Rosales-Boujnah

International Foundation for Art Research (IFAR)
500 Fifth Avenue, Suite 935, New York, NY 10110
Tel: (212) 391-6234 Fax: (212) 391-8794 www.ifar.org

EXECUTIVE DIRECTOR: Sharon Flescher
ASSISTANT TO THE DIRECTOR: Kathleen Ferguson
ART RESEARCH DIRECTOR: Lisa Duffy-Zeballos

SUBSCRIPTION INFORMATION
Subscriber: $75 (*IFAR Journal* and notices of events)
(Overseas subscribers please add $20 for mailing.)
Associate: $100 plus overseas mailing cost
(*IFAR Journal* and one complimentary admission to an IFAR Evening)

MEMBERSHIP / DONOR INFORMATION

Partner:	Individual $250 and above	Corporate $1,000 and above
Patron:	Individual $1,000 and above	Corporate $5,000 and above
Conservator:	Individual $2,500 and above	Corporate $7,500 and above
Benefactor:	Individual $5,000 and above	Corporate $10,000 and above

Membership support of IFAR, a nonprofit educational and research organization, is tax deductible to the extent permitted by law. Inquiries and payment should be directed to IFAR, 500 Fifth Avenue, Suite 935, New York, NY 10110

BOARD OF DIRECTORS
Jack A. Josephson, Chairman; David M. Campbell, Elizabeth Easton, Lee MacCormick Edwards, Christiane Fischer, Robert C. Graham, Jr., Martha Sharp Joukowsky, Theodore N. Kaplan, Aaron M. Milrad, David J. Nash, Virgilia Pancoast Klein, Leon B. Polsky, John P. Richardson, Samuel Sachs II, Theodore E. Stebbins, Jr., Gertrude Wilmers

ART ADVISORY COUNCIL
Peter Barnet, Vivian Barnett, Arthur C. Beale, Miklos Boskovits, Jonathan Brown, Margaret Holben Ellis, Linda S. Ferber, William H. Gerdts, Marco Grassi, E. Haverkamp-Begemann, Michael Heidelberg, Pepe Karmel, David G. Mitten, Kenneth Moser, Priscilla E. Muller, Linda Nochlin, Theodore Reff, David Rosand, Willibald Sauerländer, Richard Shiff, Theodore E. Stebbins, Jr., Joyce Hill Stoner, Robert Storr, John Walsh, Christopher J. White

LAW ADVISORY COUNCIL
Franklin Feldman, Chairman; Jan M. Boll, Herbert Hirsch, Barbara Hoffman, Theodore N. Kaplan, John B. Koegel, John Henry Merryman, Aaron M. Milrad, Hanno D. Mott, James A.R. Nafziger, Leon B. Polsky, Daniel Shapiro, Peter R. Stern

IFAR WISHES TO ACKNOWLEDGE THE INTERNATIONAL MUSIC AND ART FOUNDATION, THE LIMAN FOUNDATION, AND THE PIERRE AND TANA MATISSE FOUNDATION FOR THEIR GENEROUS GRANTS IN PARTIAL SUPPORT OF *IFAR JOURNAL.*

♻
Recycled Paper

IFAR Journal
INTERNATIONAL FOUNDATION FOR ART RESEARCH

2 NEWS & UPDATES

2 California Collector Maintains Handle on Suit Against Louis Vuitton: When Is a Murakami Print Really Just a Handbag?

6 Decade-old Schiele Case May Finally Head to Trial

10 California's Holocaust Era Statute of Limitations Struck Down: But Goudstikker Heir Allowed to Pursue Claim for Cranachs

12 IFAR Flashback

14 PICASSO *MOSQUETEROS* – GREAT LATE PICASSO
John Richardson

26 A MODEL KILLING MACHINE: LEONARDO'S *CARRO FALCATO*
Lisa Duffy-Zeballos

31 STOLEN ART ALERT

COVER: PABLO PICASSO, *Buste*, 1970. Oil on canvas, 39 ½" x 32" (100 x 81 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York. See article on pp. 14–22.

CALIFORNIA COLLECTOR MAINTAINS HANDLE ON SUIT AGAINST LOUIS VUITTON

WHEN IS A MURAKAMI PRINT REALLY JUST A HANDBAG?

If California-based art collector Clint Arthur were to channel Sigmund Freud, he might say that sometimes handbag fabric is just handbag fabric. At least, that is the nub of a lawsuit Arthur has fashioned in federal court in California, in which he claims that Louis Vuitton North America, Inc. committed fraud when it sold him handbag fabrics mounted on stretchers and called them limited-edition fine art prints by Japanese pop artist Takashi Murakami[1] **(FIG. 1)**. In addition, Arthur asserts that the certificates of authenticity accompanying the prints were not remotely in compliance with the labeling requirements of the California Sale of Fine Prints Act. (Cal. Civil Code § 1740 et seq. [the "FPA"].) Arthur wants more than just his money back or corrected certificates (both of which Louis Vuitton offered, and Arthur rejected, prior to litigation); he is seeking punitive damages, attorney's fees, expert witness fees, and costs.

FIGURE 1. Four of the Vuitton handbag fabrics sold as Murakami prints in 2007.

A jury may need to decide an issue that has long vexed art historians: "Under what circumstances can a 'readymade' be considered fine art?"

Arthur's suit arises from his purchase of two works, for a total of $12,000, from a temporary Louis Vuitton boutique set up in the Museum of Contemporary Art in Los Angeles ("MOCA") during a Murakami retrospective entitled *©Murakami* (October 2007 – February 2008) **(FIG. 2)**. According to MOCA's chief curator Paul Schimmel, Murakami, who had designed textiles for Louis Vuitton, wanted the boutique to accompany the exhibit. It was also Murakami's idea, said Schimmel, to stretch the fabrics "like paintings" and sell them in the boutique as "high end multiple[s]."[2] As the retrospective's title suggests, Murakami's intention was, characteristically, to "blur the line between fine art and mass produced goods."[3]

In addition to suing Louis Vuitton in federal court,[4] Arthur filed a separate, related action against MOCA in California state court. That suit, described by the court as "a prime example" of "opportunistic litigation," was dismissed in April 2009 because Arthur had

[1] *Arthur v. Louis Vuitton North America, Inc.*, No. CV08-04731 AHM (FFMx), Second Amended Complaint (C.D. Cal., filed Dec. 22, 2008).

[2] Defendant Louis Vuitton North America, Inc.'s Mem. of Points and Authorities in Supp. of its Combined Motion to Dismiss Plaintiff's Second Am. Compl., dated March 16, 2009 ("Mem. in Supp. of Motion to Dismiss").

[3] Second Amended Complaint ¶ 12; Mem. in Supp. of Motion to Dismiss, p. 4.

[4] Arthur originally sued Louis Vuitton in California state court. Because the case was styled as a class action, Louis Vuitton removed it to federal court pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. Sections 1332(d), 1453, and 1711-1715, which extends federal jurisdiction to most class actions.

FIGURE 2. The Louis Vuitton boutique at MOCA, as pictured in the lawsuit *Arthur v. Louis Vuitton.*

not returned the print prior to filing suit, which the state court held was a prerequisite to filing a claim under the Fine Prints Act.[5] Nonetheless, two months later, the federal court held that the return of the print was *not* a prerequisite to an FPA claim, and upheld the complaint against Louis Vuitton.[6] More recently, in late-August 2009, the federal court denied Louis Vuitton's request for an immediate appeal to determine the proper construction of the FPA. All this leaves open the possibility that a jury might ultimately be called upon to decide issues that have long vexed art historians: Under what circumstances can a "readymade" be considered fine art? And, what are the minimum expectations for an artist's personal involvement in the making of art attributed to him?

More concretely, this case highlights for both buyers and sellers of fine art multiples the fact that labeling laws can have teeth and should be heeded. Several other states, including New York, Illinois, Maryland and Hawaii, have legislation like California's intended to protect purchasers of fine art multiples.[7] Yet interestingly, while Murakami works similar but not identical to those purchased by Arthur[8] were sold at the Louis Vuitton boutique at the Brooklyn Museum, where the ©*Murakami* exhibit traveled after California (April – July 2008), no one — so far — has asserted a claim under New York law. This is most likely because Louis Vuitton reportedly modified the print labels prior to the Brooklyn show.

ARTHUR V. LOUIS VUITTON

Arthur claims that he did not realize that the prints were made from handbag fabric when he purchased them. Rather, he believed that they were "genuine limited-edition Murakami prints *based on* the textile patterns Murakami created for Louis Vuitton." (Italics added.) This purported (mis)understanding was premised on the high prices as well as language in Louis Vuitton's promotional brochures and certificates of authenticity, which described the prints as "unique original artworks" that were "signed and numbered by the artist" **(FIG. 3)**. According to Arthur, those representations were fraudulent, in that:

5 The state court reasoned that "to allow a purchaser to both keep his allegedly defective purchase and to get his money back accomplishes no valid social or business purpose and just rewards opportunistic litigation (of which this case is a prime example)." *Arthur v. Museum of Contemporary Art*, No. BC 393615, Transcript of Proceedings (Cal. Sup. Ct. April 23, 2009), p. 4.

6 Order contained in Civil Minutes, General (in Chambers), dated June 17. 2009.

7 See, e.g., New York Arts and Cultural Affairs Law § 15.01 et seq.; Ill. Rev. Stat. Ch. 121-1/2; Patty Gerstenblith, "Picture Imperfect: Attempted Regulation of the Art Market," 29 Wm. and Mary L. Rev. 501 (1988), n. 90.

8 Prints sold at the Brooklyn Museum were made with the "Monogramoflage" pattern. Prints sold at the MOCA were made with the "Monogram Mini Multicolore – black," "Monogram Mini Multicolore – white," "Monogram Multicolore – black," "Monogram Multicolore – white," and "Monogram Cherry" patterns.

He claimed that Vuitton "sold him handbag fabrics mounted on stretchers and called them limited-edition fine art prints . . ."

- the prints are not "original artworks" but rather, "were made out of material that Louis Vuitton had manufactured for use in its handbags";
- Murakami had no personal involvement in the manufacture of the prints; and
- Murakami did not personally sign the prints; the signature was applied by someone else.

In addition to his fraud claim, Arthur accuses Louis Vuitton of violating the California Sale of Fine Prints Act.[9] That statute requires a seller of a fine art multiple worth more than $100 to provide the buyer with a certificate of authenticity setting forth certain information about the print.[10] According to Arthur, the certificates accompanying his prints were defective in that, among other reasons, neither they nor the certificates was numbered as advertised.[11]

Louis Vuitton has vigorously defended itself. Arthur, it asserted, could have been made whole had he accepted its offer to refund his money, with interest, or to provide corrected certificates. Thus, Arthur had not suffered any "real injury" and lacked standing to sue. Vuitton further asserted, as MOCA had in state court, that Arthur was unfairly seeking to keep the canvasses *and* get his money back. It denied that its written materials were false or misleading. The fact that the prints were to be made of handbag material, Vuitton said, had been publicized *prior* to the exhibition. But, in any event, because Arthur admitted noticing defects with the certificates prior to making his purchase, he could not have been harmed by them. Finally, Vuitton argued that Arthur could not have relied on the "original artworks" language because he allegedly only discovered that language *after* his purchase.

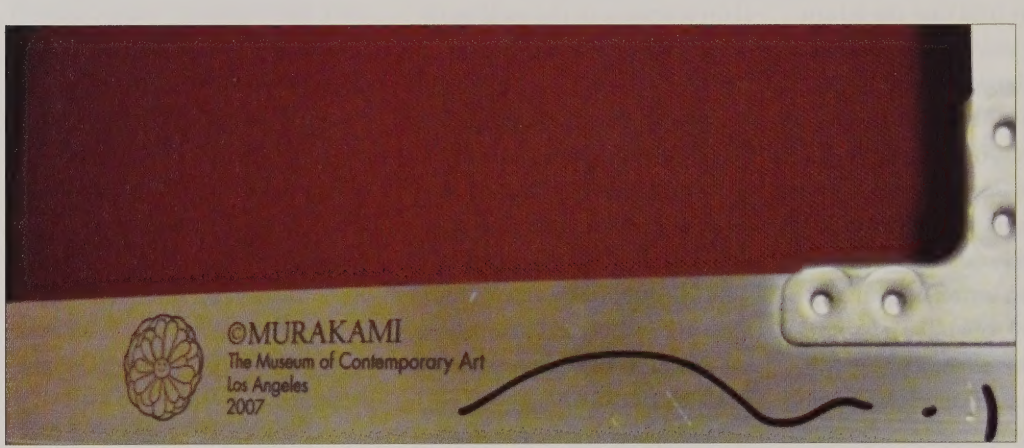


FIGURE 3. Example of a signed stretcher.

[9] Arthur's other claims, under the California Consumers Legal Remedies Act and the California Business and Professions Code, are based on the same conduct alleged in his fraud and FPA claims.

[10] Section 1744 of the FPA requires that certificates of authenticity include information essential to the assessment of a multiple's value, such as how and when the multiple was made; whether it is part of a limited edition, and if so, the size of the edition and the number assigned to the multiple; whether the artist signed and/or approved the multiple; and whether the "master" is extant.

[11] Other alleged labeling defects included failures to: disclose the artist's name; describe the print medium or process; include a statement concerning the prior use of the master image; state date of the prints; and state the maximum authorized number of the limited edition.

The federal court rejected Vuitton's arguments, holding that because Arthur seeks remedies available under the FPA, such as punitive damages, which Louis Vuitton had not offered, its pre-litigation offer would not necessarily have made Arthur whole. While noting that Vuitton's argument regarding Arthur's inability to have relied on the "original artwork" language was its "strongest," the court nonetheless upheld Arthur's fraud allegation — "which essentially consists of the claim that the Prints are not limited-edition Murakami artworks" — because it was not based "entirely" on Arthur's alleged reliance on the "original artworks" language.[12]

Finally, as noted, the court disagreed with the California state court's conclusion that the Fine Prints Act required Arthur to return the prints before filing suit. For one thing, in the case against Louis Vuitton, Arthur had offered to lodge the prints with the court pending any order requiring their return. For another, the federal court held that an amendment to the statute made clear that no pre-complaint tender was required; rather, tender would only be required, if at all, *after* a finding of liability.

[12] The district court upheld Arthur's non-FPA state law claims for similar reasons.

Louis Vuitton is now asserting — for the first time — "that the works at issue are not 'fine prints' after all . . ."

VUITTON'S NEW TACK

On November 23, as *IFAR Journal* was going to press, Louis Vuitton filed a motion for summary judgment. In it, the company asserts — for the first time — that the works at issue are not "fine prints" after all, and thus are not subject to the FPA. Rather, "each of the Editioned Canvases is intended to be an original, fully integrated artwork."[13]

This move challenges the very basis of the case, namely, that the sale violated the Fine Prints Act. Indeed, both Arthur and the court have called the works "Prints," and MOCA's chief curator described the pieces as "high-end multiple[s]." Furthermore, auction houses, including Christie's, have sold similar Murakami/Vuitton canvases under the category of "Prints and Multiples."

Louis Vuitton also argues that Arthur failed during discovery to point to any evidence to support damages to him or his other claims. In particular, Vuitton says that Arthur refused in his deposition to articulate — purportedly on "attorney-client privilege" grounds — how he was damaged.

Oral argument on the motion is slated for January. If the court grants the new motion for summary judgment, absent appeal, the litigation will come to an end. But if the court does not grant summary judgment and the case does continue, Arthur will need the court's permission to continue with the class action. And, ultimately, the question of whether wrapping handbag fabric on a stretcher and designating it as fine art amounts to fraud may be determined by a California jury. While the specific issue of whether an allegedly mislabeled art print must be returned prior to making a claim under the FPA may be unresolved, what is clear from this case is that laws concerning the labeling of fine art multiples should not be taken lightly.

MARY MORABITO ROSEWATER, J.D.
IFAR RESEARCH ASSOCIATE

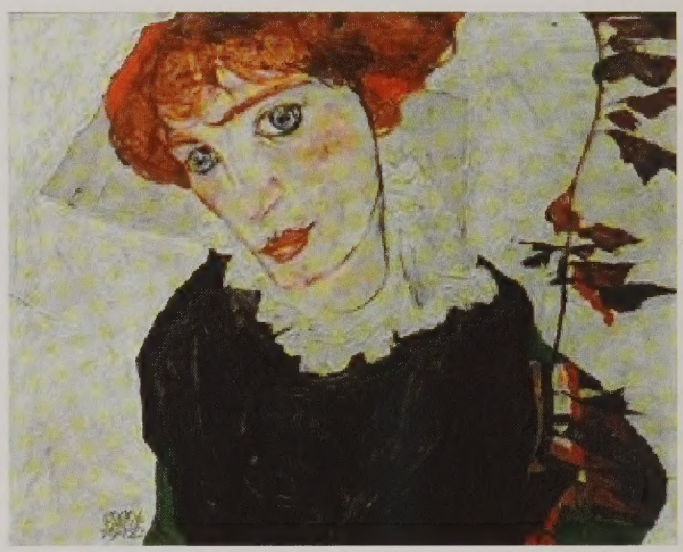
• • •

[13] Memorandum of Points and Authorities In Support of Louis Vuitton North America Inc.'s Motion for Summary Judgment, No. CV 08-04731 (AHM), dated Nov. 23, 2009, p. 22.

DECADE-OLD SCHIELE CASE MAY FINALLY HEAD TO TRIAL

JUDGE SHIFTS BURDEN OF PROOF FOR *PORTRAIT OF WALLY* TO AUSTRIAN MUSEUM

After more than a decade of legal wrangling, the ownership dispute over *Portrait of Wally ("Wally")* by Egon Schiele may finally go to trial. On September 30th, in a decision running well over 100 pages, a federal judge in New York endorsed an earlier court ruling that the case could proceed in the U.S. and also held that the defendant (the Leopold Museum in Vienna) will have to prove to a jury that it did not know the painting was stolen.[1]



EGON SCHIELE. *Portrait of Wally,* 1912. **Oil on wood, 33 cm x 40 cm. The subject of a decade-long ownership dispute.**

BACKGROUND

The present conflict dates back to 1997 when the painting, a 1912 portrait of Schiele's mistress, was loaned by the Leopold Museum to the Museum of Modern Art in New York for a Schiele exhibition.[2] Just as the painting was to be shipped back to Austria in January 1998, heirs of its pre-World War II owner, Lea Bondi Jaray ("Bondi"), filed a claim with the New York County District Attorney's Office alleging that the work had been stolen from her by a Nazi in 1939. In response, the District Attorney ordered *Wally* seized pending a state court's ruling on the matter. In 1999, the New York Court of Appeals ordered the painting released on the grounds that the 1965 New York Arts and Cultural Affairs Law protected artwork on loan to museums in New York from seizure.[3] The very next day, the federal government stepped in and seized the painting under the National Stolen Property Act ("NSPA") pending a judicial resolution in federal court. Nearly a dozen years have passed; the case has still not come to trial; and the painting languishes in a Queens warehouse, unseen by the public.

• • •

The federal case was first assigned to Judge Michael Mukasey of the United States District Court for the Southern District of New York, who later left the court to serve as U.S. Attorney General. Judge Preska replaced Mukasey, and her recent decision represents the first judicial ruling in the case since 2002. Preska's decision is significant, not merely because seven

1 *United States v. Portrait of Wally,* 2009 U.S. Dist. LEXIS 91464 (S.D.N.Y. 2009), *affirming* (S.D.N.Y. 2002), *affirming* 2000 U.S. Dist. LEXIS 18713 (S.D.N.Y. December 28, 2000), *reversing* 105 F. Supp. 2d 288 (S.D.N.Y. July 19, 2000).

2 See, among others, "Judge Goes Into Reverse in Egon Schiele Case," *IFAR Journal,* Vol. 4, no. 4/ vol. 5, no. 1, p. 2; "New York Amends Law to Allow Criminal Seizure of Art on Loan to Museums," *IFAR Journal,* Vol. 3, no. 2, p. 7.

3 *People v. Museum of Modern Art,* 93 N.Y.2d 729 (N.Y. 1999). Another Schiele painting, *Dead City,* from the same exhibit, was claimed by a different family and also seized. However, it was soon returned to Austria.

years have passed since the Court's last ruling, but also because it represents a substantial defeat for the Leopold Museum ("the Museum"). Preska found that the evidence presented by the Government, which acts on the prior owner's behalf in civil forfeiture proceedings, was so convincing that it has shifted the burden of proof to the Museum. In essence, the Government has sufficiently proven its case, and unless the Museum can successfully rebut the charges, it will lose.

The Museum has moved for the Court to reconsider its decision. As *IFAR Journal* went to press, however, the Court had not ruled on the motion nor decided on a schedule for future proceedings.

THE FACTS

Although the facts in the case are complicated, not all are in dispute. Both the Government and the Leopold Museum agree that Bondi, a Jewish art dealer in Vienna, "sold" the painting in 1939 to Friedrich Welz, an Austrian Nazi whom the post-war Austrian Restitution Commission described as "not always conduct[ing] himself in a fair and generous manner."[4] The nature of the sale, however, is disputed, with the Leopold Museum contending it was "voluntary" and the Government claiming it was "forced."

By the end of the war, Welz's art collection, including *Wally,* were among the millions of looted works recovered by Allied forces. The U.S. military was given the task of locating the original owners of these works, or their heirs. If none could be located, the works were returned to their countries of origin, which were then responsible for their restitution. In Austria, such works were entrusted to the Austrian Federal Office for the Preservation of Historical Monuments, or *Bundesdenkmalamt* ("BDA").

In 1947, the U.S. delivered *Wally* to the BDA, after mistakenly linking the painting, not to Bondi, but to another Viennese-Jewish art collector, Dr. Heinrich Reiger. Accepting the mistaken identification, the BDA included *Wally* in a group of works by Schiele restituted to Reiger's heirs in 1950. Later that year, the Reiger heirs sold *Wally* to Austria's Belvedere Gallery, which, in 1954, "traded" the painting to Dr. Rudolph Leopold for another Schiele. Dr. Leopold in turn transferred the work to the eponymous museum he founded in 1994.

During this time, Bondi had not remained idle; she was actively searching for *Wally.* To this end, she contacted a number of European Schiele collectors including Leopold himself in 1953 — a crucial fact because Leopold did not acquire the painting until 1954. Leopold's action lies at the heart of the case: Did he (and thus the Museum) know *Wally* was stolen at the time he acquired it?

"Preska found that the evidence presented by the Government...was so convincing that it has shifted the burden of proof to the Museum."

THE NEW RULING

In the most recent court proceeding, both sides — the Leopold Museum and the Government — sought summary judgment. Judge Preska denied both sides' motions. (The U.S. Government, as plaintiff, and the Bondi Estate, as a claimant, submitted a joint motion for summary judgment.)

In addition, the Leopold Museum moved to have the case dismissed based on the Act of State Doctrine and/or the notion of International Comity. The Museum had sought dismissal on the same grounds in 2002, but it was denied by Judge Mukasey. Judge Preska's September 2009 decision affirmed Mukasey's earlier ruling, denying the motion to dismiss on both grounds.

[4] *United States v. Portrait of Wally,* (S.D.N.Y. 2009), p. 20. All other page citations, which will appear in parentheses in the text, refer to this 2009 court ruling.

"The Leopold Museum claimed that Bondi's sale of *Wally* to Welz in 1939 had not been 'forced.' . . . The Court rejected this contention out of hand . . ."

The Act of State Doctrine effectively prohibits U.S. courts from invalidating public actions taken by foreign governments within their own jurisdictions. Judge Preska agreed with Mukasey's holding that, as the case had never been heard in Austria, the Court was "not being asked to invalidate any action by an Austrian governmental authority, but only to determine the effect of such action, if any, on *Wally*'s ownership" (pp. 37-38). Consequently, the Act of State Doctrine did not apply, and the Museum's motion was denied.

The notion of International Comity requires American courts to recognize "foreign" actions that do not conflict with "the interests or policies of the United States" and then balance the interests of the two nations. Once again, Preska endorsed Mukasey's 2002 decision. Mukasey ruled that none of Austria's actions, with respect to *Wally*, had amounted to a "formal or purposeful act of the Austrian judiciary, executive, or legislature" (p. 40). Since International Comity is only concerned with "official" governmental actions, it would not apply in this case; as such, the Museum's motion was denied.

To succeed in a summary judgment motion, a party must convince a judge, through its pleadings, that no "issue of fact" remains unresolved (i.e., there are no grounds on which a jury — the "trier of fact" — could find in favor of the other party) and, thus, there is no reason to proceed with a trial; the judge may simply decide the case him/herself.

In its motion for summary judgment, the U.S. Government contended that the Leopold Museum knew *Wally* was stolen (or was willfully blind to the fact). Therefore, by shipping *Wally* into the United States, the Museum violated the U.S. National Stolen Property Act, subjecting the work to forfeiture.[5] The Museum, meanwhile, sought summary judgment on the grounds that *Wally* was not stolen and, if it was stolen, the Museum had not known, and was thus entitled to retain possession of the work.

The Leopold Museum claimed that Bondi's sale of *Wally* to Welz in 1939 had not been "forced," but was in fact "voluntary." As such, *Wally* should not be considered stolen. The Court rejected this contention out of hand, noting that the transaction took place shortly after the *Anschluss* (the German annexation of Austria) and subsequent "Aryanization" of Jewish-owned businesses throughout Austria, including Bondi's art gallery. Moreover, Bondi was Jewish and Welz was a Nazi; Bondi was attempting to flee the country and Welz could have prevented her escape had she not "sold" the work to him. Based on these facts, Judge Preska found "probable cause to believe Welz stole *Wally* from Bondi by demanding it from her at a time when she could not refuse" (p. 63).

Although the Court ruled that *Wally* was stolen, the ruling was based on U.S. law. Since the relevant incidents occurred in Austria, the Court examined the outcome under Austrian law as well. Whereas United States common law holds that a thief cannot pass good title, as the "taint" of the original theft remains, in Austria (and many other countries under civil law systems), this is not the case.

The Austrian law of "prescription" allows a bona fide purchaser of stolen property to gain good title if he acquires the property legally and possesses it for a specific period of time (three years at minimum) in the belief that the possession was lawful. However, if the possessor becomes aware of a reason to "doubt his ownership" at any point during the specified

[5] The National Stolen Property Act, 18 USC § 2314, prohibits the "knowing" transportation of stolen goods valued at $5,000 or more in interstate or foreign commerce.

time period, he is obligated to perform "an investigation sufficient to remove any such doubt" (p. 82).

As noted above, the Belvedere Museum acquired *Wally* from the Reiger heirs in December 1950. In his own testimony, Leopold stated that he informed the Belvedere of Bondi's possible claim to the painting in summer or fall of 1953. The Belvedere was thus made aware of a reason to "doubt [its] ownership" within three years of acquiring a potentially stolen object. As such, Judge Preska reasoned, the Belvedere was required by Austrian law to investigate the allegation. Since it did not investigate, Preska concluded that the Belvedere had not acquired legal title to *Wally* under Austrian law. Likewise, Leopold's failure to investigate Bondi's claim, despite the fact that he was the one who brought it to the Belvedere's attention in the first place, prevented him from acquiring good title (pp. 88-89). Since Leopold did not acquire good title to *Wally* under Austrian law, Preska held that the work should still be considered stolen.

WHAT LIES AHEAD

With the Court ruling that *Wally* was stolen — under both American and Austrian law, the Leopold Museum's only hope rests on the contention that it did not know. On this point, and this point only, Preska left the Museum with a faint glimmer of hope. Though she found that the Museum had not sufficiently investigated *Wally*'s provenance, this failure only prevents it from acquiring good title to the work, it does not "compel a finding that [the Museum] knew" *Wally* was stolen (p. 104). To prove the Museum violated the National Stolen Property Act, thus subjecting the work to forfeiture in the U.S., the Government must show that, at the time *Wally* was brought into the United States, the Museum either knew the work was stolen or that it remained "deliberately ignorant" of this information. The Court held that the Government had not yet established this and, as a result, this issue alone must be resolved through a trial.

"With the Court ruling that *Wally* was stolen, … the Museum's only hope rests on the contention that it did not know."

But will a trial merely delay the inevitable? Judge Preska has already held that the Government successfully demonstrated "probable cause to believe [the Leopold Museum] knew *Wally* was stolen." Consequently, the Museum must now prove a negative — that it did not know the painting was stolen. Otherwise, the Government will prevail, and the Museum will lose the case, forfeit the painting, and face possible fines as well.

NICHOLAS DIETZ, J.D., LL.M.
IFAR RESEARCH ASSOCIATE

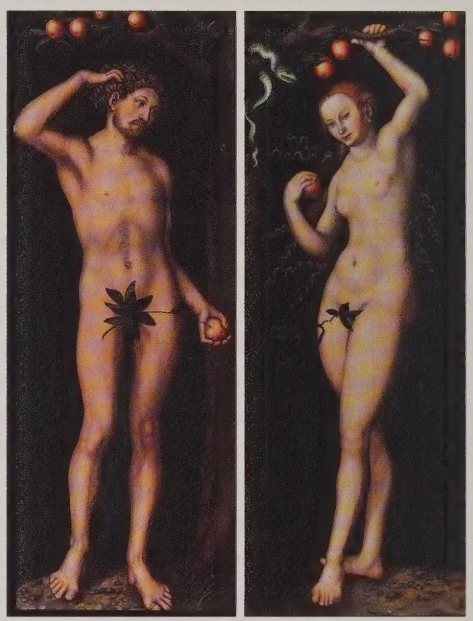
• • •

CALIFORNIA'S HOLOCAUST ERA STATUTE OF LIMITATIONS STRUCK DOWN

BUT GOUDSTIKKER HEIR ALLOWED TO PURSUE CLAIM FOR CRANACHS

The claim by Marei von Saher, heir to the famed Goudstikker art collection, to recover two 16th century paintings by Lucas Cranach the Elder from the Norton Simon Museum in California has been dealt both a blow and victory by the United States Court of Appeals for the Ninth Circuit.[1] The bad news for von Saher — and potentially other claimants — is that the court struck down as unconstitutional California's unique Holocaust Era statute of limitations under which she sued.[2] The good news is that the court reversed a lower court ruling and von Saher has been given an opportunity to amend her complaint to allege facts sufficient to fall within California's general three-year statute of limitations.

The original decision, by a three-judge panel, came down in August 2009. In September, the parties filed Petitions for Rehearing and Rehearing *en banc* (by the full court) in the Ninth Circuit. On January 14, 2010, as *IFAR Journal* went to press, the Ninth Circuit issued an Amended Opinion and denied von Saher's Petitions for Rehearing and Rehearing *en banc*. The amended portion of the ruling is brief, stating: "Because it is not clear that Saher's complaint could not be amended to show a lack of reasonable notice, dismissal without leave to amend was not appropriate (citation omitted). We, therefore, grant Saher leave to amend her complaint to allege the lack of reasonable notice to establish diligence under California Code of Civil Procedure § 338, and remand this case to the district court for that purpose."



LUCAS CRANACH THE ELDER. ***Adam and Eve,* c. 1530, currently in the collection of the Norton Simon Museum, but part of a World-War II-related ownership dispute in federal court in California.**

This Amended Opinion suggests that not only does von Saher have the burden of proving that she diligently sought the Cranachs within California's general three-year statute of limitations, but the Museum may also have had an affirmative duty to give "reasonable notice" to the public of its possession of the Cranachs, including, perhaps, information about their provenance.

The two Cranachs, life-size oil paintings of *Adam* and *Eve* on wood, were among approximately 1,200 works of art that the art dealer and collector, Jacques Goudstikker, left behind when he fled the Netherlands in 1940, in advance of the Nazi invasion. He died soon thereafter. The Cranachs have been prized possessions of the Norton Simon Museum since 1970 and '71, when the museum purchased them from George Stroganoff, whose family was said to have owned them in Russia before the Bolshevik Revolution and to whom they were returned after World War II. Whether, in fact, they were ever part of the Stroganoff collection is one of the issues in dispute.

---

1 *Marei Von Saher v. Norton Simon Museum of Art at Pasadena, 578 F.3d 1016 (9th Cir. 2009), amended, __F.3d__, 2010 WL 114959 (9th Cir., Jan 14, 2010).* For a thorough discussion of this case and the ownership history of the panels, see Carla Shapreau, "Nazi-Era Restitution Lawsuits; New Developments in the California Courts," *IFAR Journal*, Vol. 10, no. 2 (2008), pp. 21-28.

2 California Code of Civil Procedures § 354.3

The California Holocaust Era statute, enacted in 2002, extended the limitations period for claims for the recovery of Holocaust Era artwork that might otherwise have been untimely under the state's general three-year statute of limitations. The Holocaust Era statute permitted suit against a California museum or gallery (but not an individual) so long as the suit was begun by December 31, 2010. In part, the statute was intended to address the unique difficulties claimants faced regarding the investigation of origin, authenticity, and movement of looted Holocaust Era art.

Finding that the Holocaust Era statute did not conflict with any federal law or foreign policy, the Ninth Circuit nevertheless held that, under a field preemption analysis, it infringed upon a foreign affairs power reserved by the U.S. Constitution exclusively to the federal government. The 2-1 majority stated that "the relevant question is whether the power to wage and resolve war, including the power to legislate restitution and reparation claims, is one that has been exclusively reserved to the national government by the Constitution. We conclude that it has." [3]

The dissenting opinion by Judge Pregerson disagreed, remarking that property, such as the artwork at issue, is a subject traditionally regulated by the State and that California has a legitimate interest in regulating museums and galleries subject to its jurisdiction. The majority, Pregerson added, read the statute too broadly when it characterized it as providing for war reparations.[4]

The majority also concluded that the statute was too broad and appeared intended to create a "world-wide forum" for all Holocaust victims and their heirs to sue a museum or gallery located within or without the state, rather than merely protect the interests of California residents by regulating its art trade.[5] Again, Judge Pregerson disagreed, commenting that a reasonable interpretation of the statute would limit its reach to entities subject to California jurisdiction.[6]

Although the Ninth Circuit foreclosed von Saher's claim under the Holocaust Era statute, it permitted her to proceed under California's general three-year statute of limitations pertaining to personal property stolen or converted before 1983.[7] In so doing, it reversed the trial court's ruling that von Saher's claim was time-barred under the general statute of limitations.

The Ninth Circuit stated that, in determining when the three-year California statute of limitations expired, it would apply a "constructive discovery accrual rule," in other words, the clock would start to run on von Saher's claims when she discovered or "reasonably could have discovered her claim to the Cranachs, and their whereabouts." However, the California Supreme Court has not yet ruled on the issue of when the clock starts to run on such a claim, and the few California appellate courts that have addressed this issue have adopted disparate standards.[8]

California's Holocaust Era statute of limitations is now dead, unless von Saher decides to appeal to the U.S. Supreme Court and succeeds. In any case, even if revived, this statute will not benefit other claimants unless their suits are filed by December 31, 2010.

This lawsuit, like many other battles over allegedly looted art, hinges on whether, or not, von Saher can overcome the statute of limitations. But the Amended Opinion suggests that both the Museum and von Saher will have to address questions about their own diligence, or lack of it. Was the Museum diligent in notifying the public that it possessed the Cranachs? Did that diligence require notice of their full provenance? Could von Saher reasonably have discovered her claim to the Cranachs, and their whereabouts, earlier? These are among the many issues that may play out in the trial court on remand.

CARLA SHAPREAU, ESQ.

3 *Von Saher,* 578 F.3d, at 1028.

4 *Id.*, at 1031-1032.

5 *Id.*, at 1026-1027

6 *Id.*, at 1032.

7 California Code of Civ. Proc. § 338(3).

8 See, Carla Shapreau, "California Adopts an 'Actual' Discovery Accrual Rule for Claims to Recover Stolen Art," *Int'l. Journal of Cultural Property,* Vol. 7, no. 1, (1998) pp. 177-189.

IFAR FLASHBACK

30 YEARS AGO

Recovery and Restitution: Active Issues in the Political Arena

"Since the early 1970's, there have been two important legal matters pending in the United States, the determination of which could have an extremely significant impact on the domestic and international art market. The first is the proposed legislation to implement the 1970 UNESCO Convention on cultural heritage, which has been stalled in the House of Representatives since the Convention was ratified in 1972. The second is the outcome of a civil case in New York, in which the German Democratic Republic is suing a New York private collector, Edward Elicofon, for possession of two portraits by Albrecht Dürer, which were stolen from the museum in Weimar, Germany during World War II, and acquired by Elicofon in 1946. A decision in this case would update the 1964 decision of *Menzel v. List,* which awarded a painting stolen in World War II to its previous owner, thus affirming the enduring title of a stolen object, even when the object has passed into the hands of a bona fide purchaser. ..."

(***Art Theft Archive Newsletter,*** Vol. 1, no. 10, December 1979)

25 YEARS AGO

Warehouse Thefts Plague Unsuspecting Art Collectors

"Two paintings listed in a recent *Stolen Art Alert* (Jan./Feb. '83, nos. 10 and 26) were allegedly stolen between the time the owner watched them packed in New York for storage and shipping, and the time he unpacked them in his new home in Austin, Tx. Dr. Raymond Daum, curator of the theater and film collections at the University of Texas Humanities Research Center, sent a letter to IFAR in which he explained why he suspected a worker in the move. . . . IFAR hears many complaints about art thefts from warehouses. When Mr. Daum's letter came to our attention, we decided it was time to give *Stolen Art Alert* readers a retrospective view of the problem, and some advice on how to protect their own art in storage and transit.

Unfortunately, many reports are difficult if not impossible to verify. Most victims are reluctant to discuss cases in detail because of ongoing lawsuits, or because they fear being sued for libel. . . ."

(***Stolen Art Alert,*** Vol. 5, no. 4, May 1984)

20 YEARS AGO

Over 100 Items Recovered in Mexico City Theft

"Most of the archaeological art and artifacts stolen in the Christmas Eve 1985 robbery of the National Museum of Anthropology in Mexico City were returned in a ceremony on June 14, 1989. The 140 stolen objects from the Mayan, Aztec, Mixtec, and Zapotec civilizations included some of Mexico's greatest ancient treasures, excavated from famous sites. IFAR reported the theft in Volume 6, Numbers 8, 9, p. 13 and devoted over seventeen pages in the following issue of *IFARreports* (December 1985) to the catalogue of the stolen works. ..."

(***IFARreports,*** Vol. 10, no. 7, July 1989)

15 YEARS AGO

Sevso Case Ended

"The case of the Sevso Silver is finished in New York. The highest court in New York State, the Court of Appeals, chose in September to let stand the lower court's ruling against the claims of Croatia and Hungary. The defendant, the Marquess of Northampton Trust, therefore, has quashed two opponents who claimed ownership of the late antique treasure. Each country claimed it had been unearthed in its territory but failed to convince the court.

The silver first drew attention when Sothebys's Geneva attempted to sell it in 1990. Before offering it at auction, item by item, the auction house offered it en bloc for $70 million. It asserted that the silver had been found in Lebanon, and when the silver was exhibited at the auction house's New York galleries, the government of Lebanon filed a suit for its return. ... As the case was about to go to trial, with Croatia and Hungary having joined as plaintiffs in the interim, Lebanon settled with Lord Northampton and withdrew from the case. ..."

(***IFARreports,*** Vol. 15, no. 11, November 1994)

10 YEARS AGO

Technical Examination Methods: A Retrospective Look at Degas' *Little Dancer Aged Fourteen*

Around 1880 Edgar Degas created a sculpture in wax, the *Little Dancer Aged Fourteen,* that has become a sculptural icon of the twentieth century. Like most icons, it is known to the vast majority of the public only through reproductions. Currently there are 28 known bronze casts and two plaster casts of the full-sized, dressed version of this sculpture dispersed in public and private collections around the world. All were cast after the artist's death in 1917. Unlike most of the serial sculpture produced in the last half of the nineteenth century, however, the original wax sculpture from the hand of Degas has survived and affords a rare opportunity to get close to the artist.

The *Little Dancer* was Degas' only sculpture exhibited publicly during his lifetime, and was exhibited by him only once, in 1881, at the Sixth Impressionist Exhibition in Paris. . . ."

IFAR Journal, Vol. 2, no. 2 (Spring 1999)

5 YEARS AGO

American Owners Restitute Nazi-Looted Drawing to Feldmann Family: IFAR Acts as Intermediary

"It is rare that a good-faith purchaser of a Nazi-looted work of art offers to return it without remuneration to the family of its pre-World War II owner. It is rarer still when the offer comes without a claim to the new owner having been made; indeed, where the fact that the new owner possesses the work is not even known. Recently, however, IFAR acted as intermediary in just such a transaction when the owners of a beautifully preserved drawing depicting *The Liberation of Saint Peter from Prison* requested IFAR's help. The drawing, whose attribution to Rembrandt was originally made by Rembrandt scholar Otto Benesch but subsequently came into question, was acquired in the early 1970s in Amsterdam by the Dutch father of an American university professor. . . ."

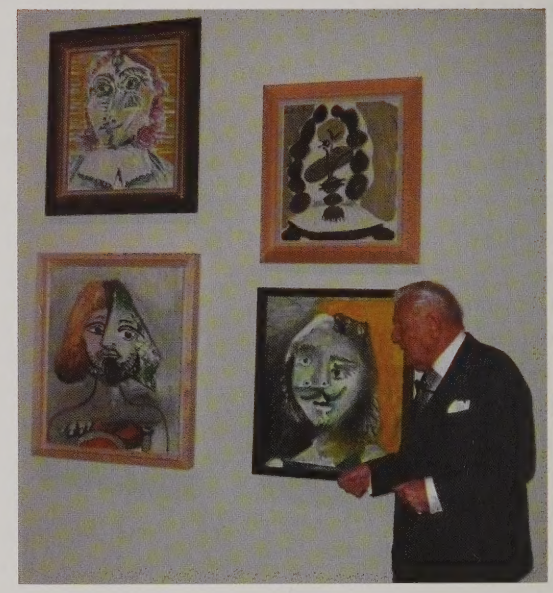
IFAR Journal, Vol. 7, no. 2 (2004)

PICASSO *MOSQUETEROS* — GREAT LATE PICASSO*

JOHN RICHARDSON**

EDITOR'S NOTE:

On May 28, 2009, noted Picasso scholar and biographer, John Richardson, led members of IFAR's Collectors' Roundtable on a private tour of PICASSO MOSQUETEROS at the Gagosian Gallery, Chelsea. Curated by Mr. Richardson with Bernard Ruiz-Picasso, the artist's grandson, PICASSO MOSQUETEROS was a large-scale loan exhibition of paintings and prints from the last decade (1962-1972) of Picasso's life. Featuring rarely-seen works from the collection of Picasso's family members, museums and private collections, the exhibit demonstrated how Picasso remained artistically innovative until the end of his life. The following article, drawn largely from Mr. Richardson's essay for the exhibition catalogue, also includes comments he made during the gallery tour.



Picasso was well aware of the almost religious awe with which artists regard the concept of a Great Late Phase. Titian and Rembrandt, Monet and Cézanne were among the few to have been accorded this accolade. The *Picasso Mosqueteros* exhibition was organized to demonstrate that the last seven years of Picasso's life constituted a Great Late Phase, one in which he felt free to do whatever he wanted, in whatever way he wanted, regardless of correctness, political, social, or artistic. Rules were made for breaking. As for technique, this was important, Picasso said, "on condition that one has so much … that it completely ceases to exist."

"… The last seven years of Picasso's life constitu a Great Late Phase, one in which he felt free to d whatever he wanted …"

Thirty-five years after his death, Picasso looks fresh and young and way ahead of the pack. That is why this show was held in a contemporary gallery in New York, the most contemporary of cities.

L'ÉPOQUE JACQUELINE

By 1953, Picasso's personal life was in a shambles and his paintings, for all their brilliance, had become a touch repetitive. Lithography and pottery had taken over much of his energies. Françoise Gilot had left

*This article is drawn in large part from John Richardson, "Great Late Picasso," *Picasso Mosqueteros,* catalogue for the exhibition curated by Mr. Richardson at the Gagosian Gallery, New York, March 26 – June 6, 2009. The catalogue is distributed by Rizzoli International Publications, Inc. and is also available at www.Gagosian.com.

** John Richardson has been a member of IFAR's Board of Directors since 1981. An art historian, curator, and writer, he is the author of the multi-volume *A Life of Picasso,* whose most recent, third, volume: "The Triumphant Years, 1917-1932," was published by Alfred A. Knopf in 2007. He is currently working on a fourth and final volume.

FIGURE 1. PABLO PICASSO. ***Femme assise dans un fauteuil (Portrait of Jacqueline)*****, 1962. Oil on canvas, 39 ½" x 32" (100 x 81 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.**

the seventy-year-old artist for someone her own age. After a succession of brief affairs, Picasso took up with an attractive, twenty-seven-year-old girl called Jacqueline Roque **(FIG. 1)**. Besides embodying his ideal physical type, Jacqueline was exceptionally submissive — all too ready to sacrifice herself on the altar of his art.

As usual, the acquisition of a new mistress necessitated the acquisition of a new house. Picasso left the petit-bourgeois villa in Vallauris, near Antibes, where he and Françoise had raised their two children in anything but luxury, and moved into an imposing fin-de-siècle villa, La Californie, on the outskirts of Cannes. From 1954 until 1961, he held court there.

NOTRE DAME DE VIE

The construction in 1960 of a high-rise apartment building overlooking La Californie obliged Picasso to move to a more secluded property: a former *mas* handsomely rebuilt by the financier Benjamin Guinness in the 1930s and situated on a hillside above Mougins, near Cannes, with a panoramic view extending to the Mediterranean. The property included a pilgrimage chapel, hence the name: Notre Dame de Vie. Picasso, who was immensely superstitious, thought this a good omen. After moving in, he and Jacqueline got married (in March 1961). At first, they welcomed friends to their idyllic new house, but little by little, as the demands of work increased, they shut themselves away from all but a small group of trusted friends and collaborators until Picasso died twelve years later.

In 1964, Picasso's peace of mind was shattered when Françoise Gilot published her tell-all memoir, *Life with Picasso.* Gilot wanted to get her own back on Picasso. She allowed that her former lover was a genius, but portrayed him as a monster of masculine entitlement. In doing so, she provided feminists with an irresistible target; henceforth, Picasso and his work would be condemned the world over as misogynistic, and woe betide anyone who pointed out that the same could be said of many of the world's greatest artists. Picasso was inured to attacks on his work, and relished them to the extent that they testified to his avant-gardism, but attacks *ad hominem* infuriated and unnerved him. After trying and failing to stop the publication of her memoir, he avenged himself on Françoise by banishing their children from his sight, thereby putting an end to any vestiges of family life. A consolation would be the presence of Jacqueline's daughter Cathy, in whose upbringing Picasso took a paternal interest.

• • •

In the fall of 1965, the duodenal ulcer that had plagued Picasso for years again flared up, and on November 16 he had to undergo an operation in greatest secrecy at the American Hospital in Paris. He was eighty-four. His biographer Pierre Daix, a frequent visitor to Notre Dame de Vie, is convinced that Gilot's book had contributed to his sickness. The operation, which may have involved prostatic complications, was extremely successful and gave the artist a new lease on old age. In the course of his stay in the hospital, Picasso was prevailed upon to give up smoking – an addiction that harked back to his tenth year.

FIGURE 2. PABLO PICASSO. *Homme à la pipe*, **1968. Oil on canvas, 51 ¼" x 35" (130 x 88.9 cm). The Steven and Alexandra Cohen Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.**

Nostalgia for tobacco comes across in the long, white clay pipes held by his *Mosqueteros* **(FIG. 2)**, the colorful swashbucklers who were about to step out of their seventeenth-century taverns and make Notre Dame de Vie their stomping ground.

MOSQUETEROS

During his long and painful convalescence, Picasso is reported by Jacqueline to have read and reread the classics: the masters of Spain's golden age, Góngora and Lope de Vega especially, and everything from Balzac to Dickens to his friend Marcel Duhamel's *Série noire* detective stories, not to mention *Tin-Tin*. Shakespeare, too, had captured Picasso's interest. A year earlier, Louis Aragon and Pierre Daix had arranged for him to celebrate the bard's four-hundredth anniversary by doing portrait drawings of him for the Communist journal *Lettres françaises*. When Pierre Daix later asked him why he had allowed such a horde of *Mosqueteros* to invade his work, Picasso replied, "It's all the fault of your old pal Shakespeare." [1]

However, it was above all the well-illustrated books on Rembrandt that Picasso perused during his recovery that engendered his *Mosqueteros*. In a search of Picasso's library at Notre Dame de Vie in 1985, I came up with Otto Benesch's six-volume catalogue of Rembrandt's drawings. This has enabled scholars, notably Janie Cohen, to identify the source of much of Picasso's imagery.[2] As soon as he resumed working early in 1966, a troop of Rembrandtian militia men in full regalia would materialize on his canvases. Inspiration for these characters also stemmed from his own earlier work. To the extent that they are theater people, the *Mosqueteros* resemble the *Saltimbanques* of the Rose Period.

In an essay I wrote for the full-scale *Late Picasso* show in 1988, I suggested that Rembrandt be seen as Picasso's all-powerful God-the-father figure — a surrogate for his real father, Don José Ruiz, the anything but powerful art teacher and painter of pigeons.[3] Whether or not he had actually seen *The Night Watch* (1642) in the Rijksmuseum, Picasso had slides of it projected onto his studio walls, thus enabling Rembrandt's militia men to enter into another artist's imagination.

We must not, however, forget that *mosqueteros* is a Spanish word, and thus implies a Spanish as well as a Dutch origin for Picasso's troops. *Portrait de l'homme à l'épée et à la fleur* in the show **(FIG. 3)** derives from Velázquez's celebrated portrait of a dwarf in Philip IV's court (1644) **(FIG. 4)**. The slapdash spontaneity of the brushwork honors Velázquez more suitably than the synthetic cubist flatness of the Meninas variations done ten years earlier. Picasso gave this figure, which, like the other M*osqueteros*, is self-referential, his own eyes – enormous *mirada fuerte* eyes. In Andalucía, they talk about eyes that have *mirada fuerte* — the strong gaze. As Picasso said to Françoise Gilot, "I wish to god you would wrap yourself completely up in veils so that people can't have you with their eyes." He felt that with his eyes, he could have a still life, eat a meal, have a woman. *Mirada fuerte* is enormously important.

1 Pierre Daix, *Picasso: Life and Art*, trans. Olivia Emmet (New York: HarperCollins, Icon Editions, 1993), p. 355.

2 Janie Cohen, "Memory, Transformation, and Encounter in Picasso's Late Prints," in Aldo Crommelynck, (ed.), *Picasso: Inside the Image: Prints from the Ludwig Museum-Cologne* (London: Thames & Hudson, 1995).

3 John Richardson, "L'époque Jacqueline," in *Late Picasso: Paintings, Sculptures, Drawings, Prints, 1953-1972*, exh. cat. (London: Tate Gallery, 1988), pp. 17–48.

As for Picasso's French sources, Gert Schiff, a pioneer in the study of the *Mosqueteros,* has pointed out that one of the 1969 *Tête* paintings is clearly based on Philippe de Champaigne's *Triple Portrait of Cardinal Richelieu* (c. 1642).[4] This link with Richelieu is the more appropriate, given how Alexandre Dumas demonizes the cardinal in *The Three Musketeers* (1844), a book the artist evidently knew by heart. Schiff identified Dumas's swashbucklers, Aramis, Porthos, and Athos, as specific characters in Picasso's gallery of *Mosqueteros.*

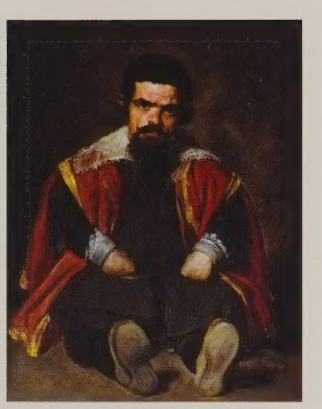


FIGURE 4. VELÁZQUEZ (1599-1660). ***Portrait of the Jester Sebastian de Morra,*** **1644. Oil on canvas, 106 x 81 cm. Collection: Museo del Prado, Madrid, Spain. Photo: Scala / Art Resource. NY.**

FIGURE 3. PABLO PICASSO. ***Portrait de l'Homme à l'épée et à la fleur,*** **1969. Oil on canvas, 57 ½" x 45 ¼". (146 x 115 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.**

Picasso also turns out to have been familiar with the work of the French painter most often associated with the cult of the musketeer: the infinitely skilled Salon virtuoso Jean Louis Ernest Meissonier, a self-styled reincarnation of the seventeenth-century Dutch genre painters. A century and a half later, Meissonier's *Musketeers* are usually written off as fustian, but in their day, they were considered startlingly realistic. Trust Picasso to pick up on Meissonier's vestigial modernity — and on the guitar-like theorbo, the large lute-like instrument that Meissonier's musketeers so often play. Picasso's people prefer guitars.

The constant references in these *Mosqueteros* paintings to Velasquez, Goya, Rembrandt, El Greco and other great predecessors is, in part, an attempt to bring these artists back at a moment when abstraction had taken over. Picasso loathed abstraction, distrusted abstraction, and was furious that the avant-garde was all about abstraction. He wanted to bring figuration back, and that, I think, explains many of these images.

[4] Gert Schiff, *Picasso: The Last Years, 1963–1973* (New York: George Braziller, in association with the Grey Art Gallery and Study Center, New York University, 1983), p. 39.

Another point to bear in mind: Picasso was a movie buff and is unlikely to have missed Bernard Borderie's popular 1961 movie *Vengeance of the Three Musketeers.* [5]

> "Picasso gave this figure, which, like the other *Mosqueteros,* is self-referential, his own eyes — enormous mirada fuerte eyes."

PICASSO'S TIME MACHINE

Picasso's life tended to alternate between bouts of maniacal work and lying fallow. After his operation, however, this dynamic ceased to apply. He was in a race against death, so there was no time for fallow periods. Judging from the number of volumes that Christian Zervos devotes to the late work, Picasso's output in the last seven years of his life was every bit as great, if not greater, than it had been at any other period of his career. At Notre Dame de Vie, he was obliged to build on two more studios to house the

[5] The movie, which premiered in two parts as *Les trois mousquetaires: Les ferrets de la reine* and *Les trois mousquetaires: La vengeance de Milady,* starred Gérard Barray, Mylène Demongeot, Guy Delorme, and Jean Carmet.

stacks of canvases — mostly *Mosqueteros* — that had accumulated. The energy and inventiveness was as consistent as it had been in his great period between 1931–32.

• • •

After the Parisian printers Aldo and Piero Crommelynck installed a press in an old bakery in Mougins, Picasso devoted himself increasingly to printmaking. Once started, he would stick to the medium for weeks on end, oblivious to anything else, including painting. So astonishing is the quantity, so intricate is the technique and vitality of the engravings, one can only conclude that Picasso was out to prove to himself as well as the world that his prints were as powerful and original as, and also a technical advance on, Rembrandt's or Goya's **(FIG. 5)**.

FIGURE 5. PABLO PICASSO. ***Autour d'El Greco et de Rembrandt: portraits*** **(Suite des 347, no. 40), April 15, 17-19, 1968. 2nd state: aquatint, scraper, and drypoint. Plate: 8 ¾" x 12 ¾" (224 x 321 mm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.**

"Picasso loathed abstraction, distrusted abstraction . . . He wanted to bring figuration back, and that, I think, explains many of these images."

BULLFIGHTS AND TOREROS

Picasso seldom missed the *corridas* in the Roman arenas of Provence. In the late 1950s and early 1960s, he had favored Nîmes. In the 1960s, he seemed to feel more at home in Arles, whose craggy arena figures in the background of so many of his bullfight scenes. Its associations with Van Gogh, an artist he took more and more to heart in his old age, further endeared the city to him.

FIGURE 6. PABLO PICASSO. ***Tête d'homme du XVIIème siècle,*** **1967. Oil on canvas. 28 ¾" x 23 ¾" (73 x 60 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.**

A measure of Picasso's admiration is his adoption of Van Gogh's baroque treatment of surfaces: billowing waves of striated paint that evoke the movements made by the *mistral*, the fierce local wind, on fields of corn, windbreaks of cypresses, and the turbulent sky of his *Starry Night*. Picasso applied these baroque undulations to the coils of his *Mosqueteros*' locks of hair, the volutes of their cheeks and chins, the ornate clouds of smoke belching skyward from their long clay pipes, and even the spin of their eyeballs **(FIG. 6)**.

Picasso was unable to resist turning his *Mosqueteros* into toreros: Goyaesque ones. And since he also endowed them with his own huge, *mirada fuerte* eyes, these figures also constitute self-portraits. They replace the tall, elegant Luis Miguel Dominguín, the previous model for most of Picasso's bullfighters. The new breed of *Mosqueteros* are above all Goyaesque in their costumes, notably the tasseled, netlike bag that contains their abundant hair **(FIGS. 7 AND 8)**. Picasso

FIGURE 7. PABLO PICASSO. *Tête de matador,* 1970. Oil on canvas, 36 ¼" x 27 ½" (92 x 70 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

FIGURE 8. PABLO PICASSO. *Torero,* 1970. Oil on canvas, 51 ¼" x 38 ¼" (130 x 97 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

had been at pains to stay out of Goya's overwhelming shadow, but in old age he gave way to it. The loss of hearing that increasingly afflicted Picasso may also have been a link with his fellow countryman, who had gone totally deaf and shut himself up in a house called Quinta del Sordo (The House of the Deaf Man) to paint his great, late black paintings — which shocked his former patrons, just as Picasso's great late *Mosqueteros* would.

In his *Buste* of 1970, one of the last and greatest *Mosqueteros* **(FIG. 9)**, it is as if Picasso is looking at death through a keyhole. The amazing color — the green of the hat, the red — is more like the color in a Fauve or German Expressionist painting. It is an unforgettable, terrifying image; a painting of enormous courage and originality, that stands as one of the greatest of his later paintings and the greatest in the show.

A FACE IN THE FLOWERS

So paradoxical was Picasso that almost any statement one makes about him tends to be no less true in reverse. In the exhibition catalogue, Dakin Hart demonstrates how Picasso exploited the sweetness and prettiness of flowers to further the cause of peace.[6] Hart is right. At the same time, we need to remember that the saleable flower pieces Picasso had been obliged to turn out in his penniless Montmartre days had turned him against flowers. This attitude explains his often unpretty treatment of them, for instance in his huge 1956 painting of a ramshackle *jardinière.* "Don't bother to put them in water," Picasso used to tell people who brought him flowers. "They're going to die anyway."

Ten years later, Picasso did a couple of paintings that reveal a less punitive approach to flowers. In the finest of them, *Vase de fleurs sur une table* **(FIG. 10)**, he took a very different approach. It is dated October 28, 1969, three days after the artist's eighty-eighth birthday, an occasion that would have involved the unwelcome arrival of floral arrangements from well-wishers and cultural institutions the world over. Had extreme old age modified Picasso's views? Mariano Miguel Montañés, the Spanish secretary who had

6 See Dakin Hart, "Peace and Love Picasso," in *Picasso Mosqueteros,* exhib. catal., Gagosian Gallery, New York, 2009, p. 248.

FIGURE 9. PABLO PICASSO. *Buste,* 1970. Oil on canvas, 39 ½" x 32" (100 x 81 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

FIGURE 10. PABLO PICASSO. *Vase de fleurs sur une table,* 1969. Oil on canvas, 45 ¾" x 35" (116 x 89 cm). Fondation Beyeler, Reinen/Basel. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

taken over after the death of the artist's Catalan amanuensis, Jaime Sarbatés, reported Picasso as saying, "Look at that rose — I clearly see a face in it. The nose, the eyes, the mouth, everything, even the ears." And then murmuring, as if to himself, "If the petals of a rose can suggest a human face, how many things can a face suggest?" [7] The curlicue eyes, stalk of a nose, and tufts of leafy hair in this birthday flower piece suggest a self-portrait.

• • •

Picasso's remark to Brassaï about smoking — "It is age that forced us to stop, but we still want to. The same goes for making love. You can't do it anymore, but you still want to" — describes how Picasso felt after giving up tobacco and sexual activity.[8] Loss of libido may have left him sexually deprived, but, to judge by his work, more sex-obsessed than ever. This obsession inspired him to fly in the face of the taboos that had always bugged him and take erotic imagery much, much further than any Western artist had ever taken it. In their intensity, abandon, and nitty-gritty physicality, Picasso's erotic drawings reek of the real thing. In his shaman's hands, what had traditionally been condemned as obscene turned out to be a miraculous, untapped source of quasi-divine imagery. . . When Leymarie, who was teaching at Geneva, told Picasso that his students wanted to know the difference between art and eroticism, Picasso decreed, "There is no difference." [9]

The performers in Picasso's graphic sexual scenes look very like Jacqueline, but it does not follow that the figures are actually his wife. Having long ago internalized Jacqueline's image, Picasso had no need for her to actually pose. All he needed was her constant presence; he could then project her into all manner of roles, many of them unflattering.

This may well have upset her. By 1970, the strain on Jacqueline had become more than even she could bear. Picasso could not be left alone. He needed to have her around when he worked — often until very late at night. She had to wake early if she was to do all the chores that running the Picasso household

7 Mariano Miguel Montañés, *Pablo Picasso: The Last Years,* trans. Luke Sandford (New York: Assouline, 2004), p. 119.

8 Brassaï, *The Master at 90,* pp. 272–73.

9 Elizabeth Cowling, *Visiting Picasso: The Notebooks and Letters of Roland Penrose.* London: Thames & Hudson, 2008, p. 326.

FIGURE 11. PABLO PICASSO. *Femme nue,* 1971. Oil on canvas, 39 ½" x 32" (100 x 81 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

FIGURE 12. PABLO PICASSO. *Nu assis,* 1971. Oil on canvas, 51 ¼" x 38 ¼" (130.2 x 97 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

required, as well as taking care of her own personal needs. Jacqueline was also obliged to take care of much of Picasso's business. Picasso grew increasingly worried by Jacqueline's nervous state, and the disquiet makes itself felt in some of the more tortured of the late nudes. Jacqueline had indeed sacrificed herself on the altar of his art **(FIGS. 11 AND 12)**.

THE THREE AGES OF PICASSO

In celebration of his approaching ninetieth birthday on October 25, 1971, Picasso devoted a sequence of five very large self-referential paintings (up to 77 x 52 inches) to a time-honored theme he had tackled once before, in 1942: the Three Ages of Man. That he completed these in the space of five days (August 14–18) is an amazing feat for a man in his ninetieth year. Three of these paintings were included in this show **(FIGS. 13 - 15)**. How did a very small, very old man manage to work on canvases so much taller than himself? He would often lay them flat on a table. The setting of all but one of the *Three Ages of Man* paintings is a sandy beach. In the first of them **(FIG. 13)**, Picasso portrayed himself as a vigorous youth wielding a stick for drawing in the sand, as he is recorded to have done as a child in Málaga. In the next three paintings, he envisaged himself successively as a naked man with the quiff of hair **(FIG. 14)** familiar from photographs of him in middle age, shading one of his haunted and haunting eyes, and as an older man with gray hair **(FIG. 15)**. In the last painting (in the Nasher Collection in Dallas), he portrayed himself as an ancient wreck with a wispy beard and huge, scared eyes, staring out at us from under the brim of one of Van Gogh's straw hats. In his greatly exaggerated frailty, he is supported at the back by a stalwart nude who looks nothing like Jacqueline.

• • •

The principal purpose of the *Picasso Mosqueteros* show, which consisted largely of works belonging to members of the artist's family, was to demonstrate that Picasso did achieve a Great Late Phase — one that is all the more far-reaching for being explosive and challenging. Failure to appreciate the power of

FIGURE 13. PABLO PICASSO. *Personnage,* 1971. Oil on canvas, 76 ¾" x 51 ¼" (195 x 130 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

FIGURE 14. PABLO PICASSO. *Au Travail,* 1971. Oil on canvas, 63 ¾" x 51 ¼" (161.9 x 130.2 cm). The Museum of Modern Art, New York. Gift of Jacqueline Picasso, 1985. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

FIGURE 15. PABLO PICASSO. *Homme Accroupi,* 1971. Oil on canvas, 57 ½" x 45" (146 x 114 cm). Private Collection. © Estate of Pablo Picasso / Artists Rights Society (ARS), New York.

"Far from being a whimsical *Totentanz,* the *Mosqueteros* turn out to be a monumental apotheosis."

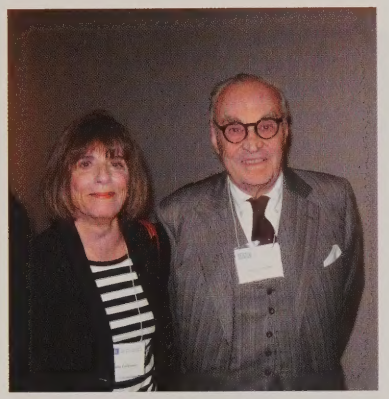
his late works has stemmed in part from an inherent fear of the shock of the new. At the time of their making, abstraction was no longer scary or embarrassing, even to conservative viewers, and Picasso was once again determined to administer a shock — much as he had set out to do sixty years earlier with the *Demoiselles d'Avignon* (1907). Nine years had passed before the artist dared to launch the *Demoiselles* on the world; this time around, he saw to it that his revolutionary new works had an immediate impact, to the dismay, as it turned out, of academic modernists as well as academic fogeys. How could these unashamedly outrageous paintings, with their farcical irony, their caricatural baroquerie, their glut of genitalia, their science-fiction time warp and subversive black comedy, be reconciled to the accepted precepts of art history? Picasso had broken all the rules.

Now that the smoke has cleared, we can see that Picasso had taken his cubism and everything that emanated from it to new heights. Picasso was never more faithful to himself and his genius than in these defiantly confrontational paintings. Far from being a whimsical *Totentanz*, the *Mosqueteros* turn out to be a monumental apotheosis.

• • •

SCENES FROM THE COLLECTORS' ROUNDTABLE

Liliane and Norman Peck



Shirley Lockwood and George LaBalme

March Avery Cavanaugh and Virgilia Klein

LEFT TO RIGHT: Stuart Levy, Irena Gapkova, Nicholas Thaw, and Charles Bergman

LEFT TO RIGHT: Janet Ruttenberg, Samuel Sachs II, and Ellen Liman

Eric Waldstedt (left) and Howard Shaw

CONTINUED

SCENES FROM THE COLLECTORS' ROUNDTABLE

Frances Beatty and John Richardson

Cynthia, Lee, and Nicholas Polsky

Jason McCoy and John Richardson

Fred Elghanayan (left) and Andrew Gundlach

Cristina Grassi (left) and Susana Leval

IN MEMORIAM

DAVID LEON DALVA II

DIED: August 8, 2009

COLLECTOR, CONNOISSEUR,
GALLERIST

MEMBER
IFAR BOARD OF DIRECTORS
1984–2009

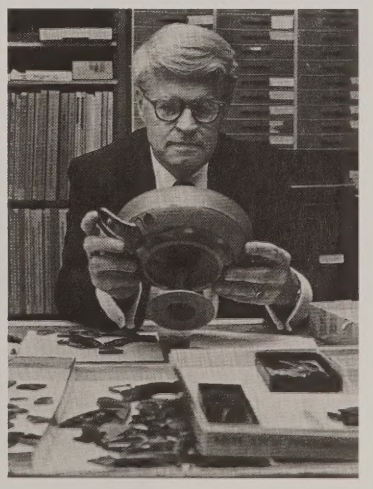
DIETRICH VON BOTHMER

DIED: October 12, 2009

SCHOLAR AND CONNOISSEUR

DISTINGUISHED RESEARCH CURATOR
AND DIRECTOR EMERITUS,
GREEK AND ROMAN ANTIQUITIES,
THE METROPOLITAN MUSEUM OF ART

MEMBER
IFAR ART ADVISORY COUNCIL
1978–2009



WE WILL MISS YOU

A MODEL KILLING MACHINE: LEONARDO'S *CARRO FALCATO*

LISA DUFFY-ZEBALLOS*

Over the years IFAR has investigated a wide variety of art objects ranging from Old Master and modern paintings, to Chinese porcelains and ancient statuary. Recently, however, IFAR received what must surely be one of its most unusual inquiries, a miniature wooden model of Leonardo da Vinci's scything chariot or *carro falcato*. A bronze plaque attached to the chariot's pull shaft bears the inscription: "LEONARDO DA VINCI/ CARRO FALCATO/1483" **(FIG. 1)**. The owners had purchased the model **(FIG. 2)** at an estate sale several years earlier, and wanted IFAR to determine if it had been created by Leonardo himself as a maquette of one of his fanciful military machines. Scholars agree that while it is *plausible* that Leonardo created miniature working models of his designs, *no three-dimensional models by him are known today.*

FIGURE 1. Detail of the bronze plaque on IFAR model.

From the photos initially submitted to us, there were obvious inconsistencies with the design and operation of the IFAR model and Leonardo's designs. We informed the owners that we strongly suspected that the work was of modern manufacture; nevertheless, they asked us to investigate their unusual piece. We enlisted the help of Matthew Landrus, a Leonardo scholar and a noted expert on Leonardo's military weapons — specifically the giant crossbow or *balestra*. Professor Landrus has had a long-standing interest in exhibition models and in early reproductions of Leonardo's engineering designs. Thus, in the course of our investigation and extensive research, IFAR learned much about a curious subset of Leonardo scholarship: twentieth-century exhibition models of his inventions.

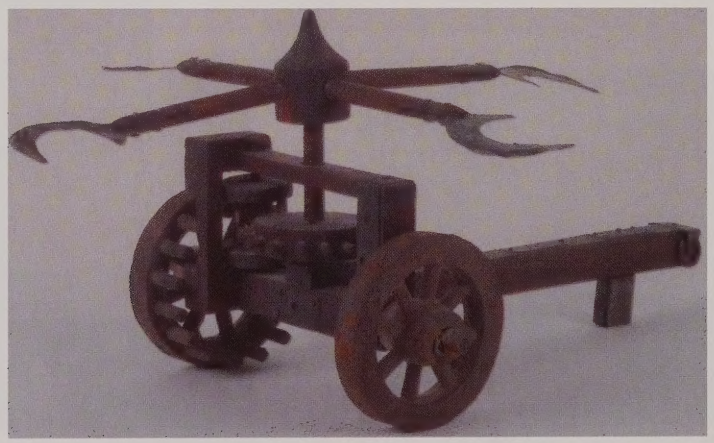


FIGURE 2. *Carro Falcato*, miniature model scything machine submitted to IFAR.

* Lisa Duffy-Zeballos, Ph.D. is the Leon Levy Foundation Art Research Director at IFAR.

LEONARDO AS A MILITARY ENGINEER

Leonardo's interest in science and engineering is well-known, and any discussion of his drawings immediately brings to mind his designs for flying machines and his meticulously observed anatomical studies. It may come as a surprise to many people, however, to learn that Leonardo also designed gruesome military machines for some of the most bellicose princes of his time to butcher and maim enemies with grim precision. He designed these weapons despite believing that war was the "most beastly madness", and that the person "who does not value [life] does not himself deserve it."[1]

"Leonardo also designed gruesome military machines...to butcher and maim enemies with grim precision."

The first reference to Leonardo's interest in military engineering is found in a 1481 letter he wrote to Ludovico Sforza ('il Moro'), Duke of Milan, recommending himself as a "skilled inventor of machines of war." In the letter, Leonardo describes many of his now-famous military designs, and boasts that he could make "other unusual machines of marvelous efficiency, not in common use."[2] One of those was surely the deadly scythed chariot; used for breaking ranks, its blade-tipped propeller was designed to cut a bloody path through enemy infantry.

Reaping wagons were not new; ancient Roman sources describe assault chariots fitted with short scything blades attached to the wheels.[3] Like many Renaissance engineers, Leonardo was fascinated by these scything wagons, and four of his designs survive today.[4]

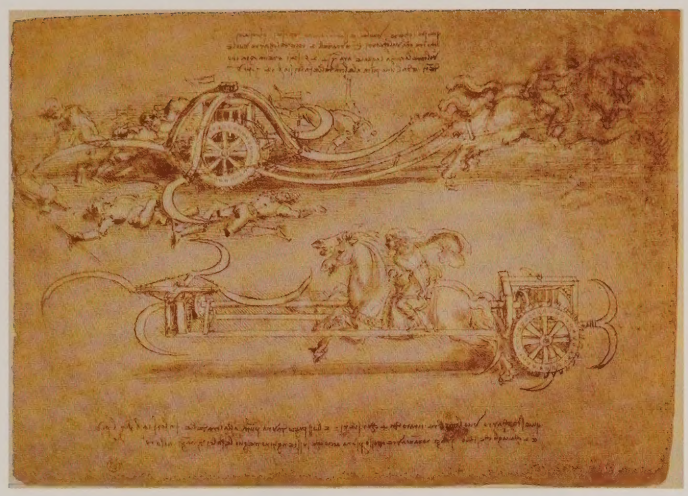


FIGURE 3. *Scything Chariots,* **Leonardo da Vinci, ca. 1487, Biblioteca Reale, Turin (no. 15583).**

But he sought to improve upon the ancient design by constructing scything wagons with gear-driven, blade-tipped 'propellers', whose long reach offered protection for the driver and clear passage for the chariot.

In a folio housed in the Biblioteca Reale in Turin, Leonardo tried out two different designs for scything

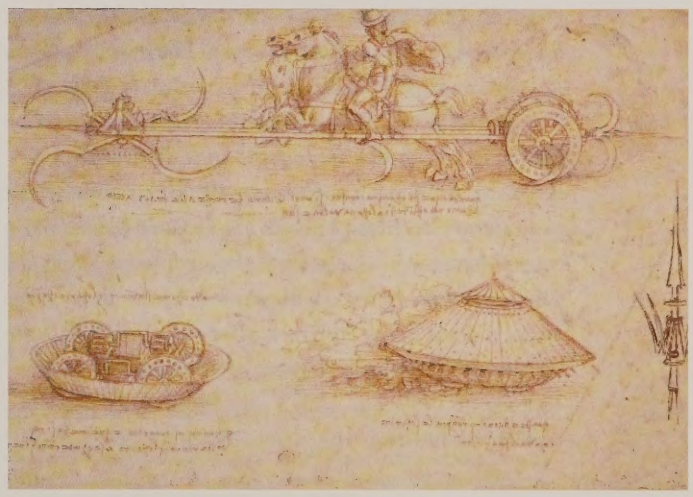


FIGURE 4. *Scything Chariot and Armored Car,* **Leonardo da Vinci, ca. 1487, British Museum, London (inv. no. 1860-6-16-99).**

machines on a single page (**FIG. 3**). The drawing at the top depicts a horse-drawn single scyther whose long rotary blades slope downward, to sever the limbs of man and beast. To demonstrate his machine's deadly efficacy, Leonardo depicted the mutilated bodies

---

1 (*Philosophical Maxims,* 1140) Op cit. Jean-Paul Richter, *The Literary Works of Leonardo da Vinci,* vol. 2 (London: S. Low, Marston, Searle & Rivington, 1883), p. 286.

2 Carlo Pedretti, *Leonardo da Vinci: The Battle of the Anghiari and the Fanciful Weapons.* (Florence: Editions Gran'tour, 2000), p. 10.

3 Diodorus of Sicily reported Darius's use of scything wagons at the Battle of Gaugamela against the army of Alexander the Great. Paolo Galluzzi, *Renaissance Engineers: From Brunelleschi to Leonardo.* (Florence: Istituto e Museo di Storia della Scienza, 1996), p. 58.

4 These are contained in the following folios: British Museum (inv. no. 1860-6-16-99), Institut de France (Ms. B-10 r.), Biblioteca Reale, Turin (no. 15583). On a single folio, Leonardo also drew two similar designs for assault chariots armed with maces and spiked clubs (Windsor Castle, Royal Library, RL 12653).

"These replicas are occasionally sold … as authentic Renaissance models, or even works by Leonardo himself."

of soldiers slaughtered by the whirling blades. This design, however, provided no defense from frontal assault, a lethal liability for a machine used for breaking ranks.

Leonardo's solution was a *forward-propelled* double reaping wagon, in which a four-blade propeller at the front cleared a safe passage through enemy defenses **(FIG. 3, TOP; FIG. 4, BOTTOM)**. A drive shaft connecting the front and rear end of the chariot transfers the motion of the wheels to turn the front propeller, while a second rotating scythe provides protection against rear attack. And whereas the downward sloping blades of the single scyther severed limbs, the straight propeller blades of the double reaper decapitated the enemy, making it an even more efficient killing machine. The double reaper also had another crucial advantage: the ability to raise and lower the blades. Leonardo noted in an inscription, "When this travels through your men, you will wish to raise the shafts of the scythes, so that you will not injure anyone on your side," but he did not describe precisely how this would be done.

The omission was deliberate; unlike modern engineering plans, Leonardo's fantastical military drawings served as visual propaganda, not blueprints on how to construct his inventions. In the *Codex Atlanticus*, Leonardo complains about a lazy German assistant named Giorgio Tedesco who wanted Leonardo to create models of his designs for Tedesco to take back to his country. Leonardo refused, offering instead to give Tedesco his drawings, which were more difficult to replicate than three-dimensional scale models.[5]

THE IFAR *CARRO FALCATO*

Judging from the IFAR model's gross technical inaccuracies, modern fabricators, too, have had difficulty constructing working models from Leonardo's drawings. The small 12 x 12 inch IFAR model chariot is powered by three interlocking gears that redirect the motion of the wheels to the scythed blades. The first two gears are perpendicular. The toothed right wheel gear turns a cage gear, which transfers the vertical motion of the chariot's wheels to the horizontal plane. When the model is pushed, four scything blades turn clockwise. At first glance the IFAR model most closely resembles Leonardo's horse-pulled single propeller scything wagon; however, closer inspection reveals it to be a composite of *all* of Leonardo's designs for military chariots. Whereas the blades in Leonardo's single scyther slope downward in a reaping motion, the propeller blades in the IFAR model resemble helicopter blades, like the front rotating blades of Leonardo's double reapers. Likewise, although Leonardo's single scyther is designed to be *pulled*, the IFAR model is designed to be *pushed* ahead of a team of horses harnessed to the central shaft, like Leonardo's front-propelled double scything machines.

The gear mechanism of the IFAR model presents another serious design flaw. Leonardo positioned the gear assembly *beneath* the central rotary blade in the single scything wagon, whereas the gear cage of the IFAR model is located *adjacent* to the wheel. This unsophisticated gear system is inconsistent with any one drawing by Leonardo. Apparently unable to construct one single design accurately, the fabricator of the IFAR model used various elements from *all* of Leonardo's designs.

Despite the technical inaccuracy of the IFAR model, the fabricators attempted to make it *look* antique, and partially succeeded. Pieces of hand-hewn wood were held together with hand-made nails, Landrus observed, to make the model appear "authentic." The soft, grainy wood had been treated with a dark walnut stain *after assembly*, evident in the way different parts of the model had absorbed the stain. The flat top of the gear is darker than the rest of the scything chariot, whereas the rounded rotary blades are stained unevenly where the stain dripped off. Similarly, the model maker fitted the IFAR model with heavy die-cast iron wheels, but also replaced Leonardo's fearsome iron spikes with decorative rivets.

5 *Codex Atlanticus* (f. 671r.) Biblioteca Ambrosiana, Milan Op cit., Domenico Laurenza, Mario Taddei and Edoardo Zanon. *Leonardo's Machines: Da Vinci's Inventions Revealed.* (Cincinnati: David and Charles Ltd., 2006), p. 12.

TWENTIETH-CENTURY LEONARDESQUE EXHIBITION MODELS

The technological achievements of the Industrial Revolution fueled interest in Leonardo as a gifted and prescient engineer, and indeed, the early decades of the twentieth century witnessed the invention and realization of many of Leonardo's most fantastical concepts, including the automobile, airplane and helicopter. World War I, which saw the introduction of airplanes, parachutes and armored tanks in modern warfare, sparked appreciation for Leonardo as a military engineer. Beginning in the 1930s, science museums throughout the world began staging exhibitions of Leonardo's designs, featuring both life-size and miniature models, the latter offered for sale in museum shops.

The first major exhibition was held in Milan in 1939, featuring 200 life-size models constructed by the young Leonardo scholar, Roberto Guatelli, using contemporary construction methods and materials.[6] Unfortunately, Mussolini devised this ground-breaking exhibition as fascist propaganda, and thus the organizers were more interested in presenting Leonardo as an Italian genius than in producing accurate reproductions of his designs. The following year, these full-size exhibition models traveled to New York and Tokyo, and consequently, became flawed prototypes for all models created during the war years of the early 1940s.[7]

The end of World War II sparked a greater appreciation for Leonardo's military genius, and fueled the demand for technically accurate reconstructions of his engineering designs. One of the earliest was the Los Angeles County Museum of Art's 1949 exhibition, which featured accurate full-scale models by Guatelli.[8] The IBM Corporation also hired Guatelli for its 1951-1953 exhibition in honor of the 500th Anniversary of Leonardo's birth. The same year, the Museo della Scienza e della Tecnica in Milan staged its own exhibition featuring accurate full-scale models constructed by a scholarly committee closely based on Leonardo's designs.[9] More recently, at least four major exhibitions dedicated to Leonardo as an engineer were staged from 2006-2009, all featuring precise model reproductions of Leonardo's mechanical drawings.[10]

FIGURE 5. ***Carro Falcato,*** **miniature model, square plaque series, early 1940s.**

Professor Landrus ruled out all of the exhibitions held after 1970 as possible sources for the IFAR model since later models were mass-produced using modern fabrication techniques and materials. Nor did he believe the

---

6 The catalogue cites a model of a double scything machine in the exhibition, described as "Modello ricostruito di carro falcato con ruote ad arpioni azionanti a mezzo di un unico albero le falci girevoli anteriori e posteriori." *Mostra di Leonardo da Vinci e delle invenzione italiane* (Milan: Palazzo dell'Arte, 1939), p. 23

7 These prototype models were eventually destroyed in Allied bombing raids in Japan. Following Italy's surrender to the Allies, Guatelli himself spent over a year in a Japanese concentration camp for refusing to take the oath of allegiance to Japan. See John Wiley, Jr. "After Five Centuries, a Devoted Modeler Gives Shape to Leonardo da Vinci's Drawings," *Smithsonian,* Vol. 18, no. 5 (1987), p. 90 .

8 In a clear reference to the inaccurate earlier models, W.R. Valentiner stated in his introduction to the catalogue that the LACMA models had been "rebuilt independently, directly from the drawings of Leonardo." And in the spirit of post-war patriotism, he also noted that Guatelli assembled the models "partly in his New York Studio, partly in the Los Angeles County Museum." W.R. Valentiner, *Leonardo da Vinci* (Los Angeles: Los Angeles County Museum of Art, 1949), p. 12.

9 The artillery models were by designers G. Fazzaroli, F. Marzanasco and A. Branchesi. The engineering models were constructed under the auspices of the Instituto Storico e di Cultura Arma del Genio by designers L. Leschiutta, L. Volpi, and A. Batocchi, and modellists E. Menichetti and M. Lombardi. *Scienza e tecnica di Leonardo: artiglieria- genio-marina-aeronautica* (Rome: Stabilimento Fotomeccanico dell' Aeronautica Militare, 1952), p. 32.

10 These include *The Mind of Leonardo: The Universal Genius at Work* (Uffizi, Florence, 2007); *Leonardo da Vinci: Experience, Experiment and Design* (Victoria and Albert Museum, London, 2007); *Leonardo da Vinci: Nature, Art and Science* (Museo Nazionale della Scienza e della Tecnologia Leonardo da Vinci, Milan, 2009); and *Leonardo da Vinci's Workshop* (Discovery/Times Square, New York, 2009).

source to be either of the 1952 exhibitions, since those models were technically accurate. In light of the IFAR model's handmade construction, technical failings, and the use of the Italian title on the bronze plate, Landrus suggested that it was made for an Italian exhibition from the early 1940s, a time of economic hardship and intellectual isolation in Italy. Paolo Galluzzi, Director of the Istituto e Museo Nazionale di Storia della Scienza in Florence and a specialist on Leonardo's mechanical drawings, agreed, based on a photograph, that the IFAR maquette derived from the inaccurate models designed for the 1939 Milanese exhibition.[11]

The IFAR model may have belonged to one of two nearly identical sets of hand-made miniature exhibition models from the early 1940s. The models of the first set are labeled with square bronze plates bearing Leonardo's name, the Italian title of the machine, and the year of the design. With the exception of the square bronze tag and its square-topped rotary finial, the scything wagon from this series **(FIG. 5)** is virtually identical to the model submitted to IFAR. Despite the similarities, however, the IFAR model probably belonged to a second, possibly earlier, set, with rounded metal tags, but fitted with the same riveted die-cast iron wheels. There are no available images of other scythers from this set, but both the IFAR model and the giant crossbow from this series display the same overall rust and level of wear to the wheels, indicating the same early date of manufacture.

Small scale models frequently are offered for sale in estate sales and in online auctions as twentieth-century model reproductions of Leonardo's engineering designs. Modern exhibition models are highly collectible, primarily among hobbyists and military enthusiasts, and early examples from the early 1940s, like the IFAR *carro falcato*, are especially in demand. Let the buyer beware, however, these replicas are occasionally sold by unscrupulous sellers as *authentic* Renaissance models, or even works by Leonardo himself. But as stated above, neither full-size nor miniature three-dimensional models by Leonardo, if they ever existed, are known to have survived.

[11] IFAR would like to thank Matthew Landrus and Paolo Galluzzi for allowing us to cite their comments.

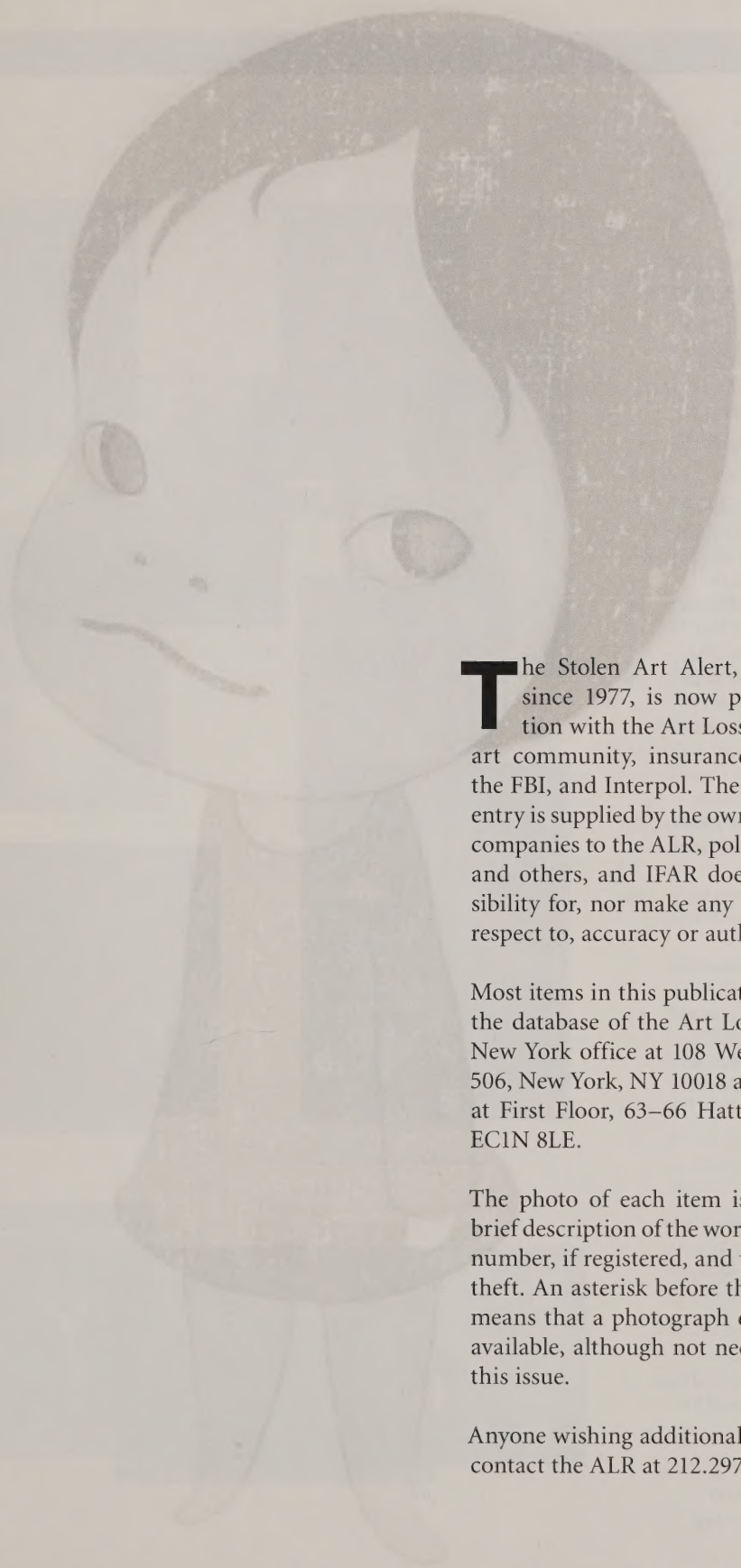
• • •

IFAR ART AUTHENTICATION RESEARCH SERVICE

For forty years, IFAR has offered a unique Art Authentication Research Service, which works to resolve questions concerning the authenticity and attribution of works of art. As a not-for-profit organization with a distinguished Art Advisory Council and a worldwide network of scholars, IFAR is free to render objective opinions unaffected by the marketplace.

IFAR offers its services to individuals, dealers, museums, and other institutions. We examine art only for the owner, or with the owner's consent. We are only able to accept a limited number of projects each year. As an educational organization, IFAR reserves the right to publish the results of its research.

For additional information, please call (212) 391-6234 or go to www.ifar.org.



The Stolen Art Alert, published by IFAR since 1977, is now produced in cooperation with the Art Loss Register (ALR), the art community, insurance companies, police, the FBI, and Interpol. The information in each entry is supplied by the owner and/or insurance companies to the ALR, police, the FBI, Interpol, and others, and IFAR does not accept responsibility for, nor make any representations with respect to, accuracy or authenticity.

Most items in this publication are registered in the database of the Art Loss Register, with its New York office at 108 West 39th Street, Suite 506, New York, NY 10018 and its London office at First Floor, 63–66 Hatton Garden, London EC1N 8LE.

The photo of each item is accompanied by a brief description of the work, the ALR catalogue number, if registered, and the date and place of theft. An asterisk before the catalogue number means that a photograph of the stolen work is available, although not necessarily included in this issue.

Anyone wishing additional information should contact the ALR at 212.297.0941.

STOLEN ART*

PAINTINGS

30 RENÉ MAGRITTE (Belgian, 1898-1967). ***Olympia,*** 1948. See color photo on inside back cover.

31 EDWIN HENRY LANDSEER (Scottish, 1802-1873). ***West End Fair (Monkeys and Dogs Performing on a Stage).*** See color photo on inside back cover.

32 YOSHITOMO NARA (Japanese, b. 1959). ***Hinagiku,*** 2000. Acrylic on canvas. 12" x 6". *N09.301. Stolen from a private residence in Los Angeles, CA on June 22, 2009.

33 PAUL HENRY (Irish, 1876-1958). ***Lough Corrib, Galway.*** Oil on canvas. 10" x 13". *L09.541. Stolen from a gallery in Dublin, Ireland on January 1, 1991.

34 GEORGY KURASOV (Russian, b. 1958). ***Untitled (American Beauty),*** 2008. Oil on linen. 40" x 30". Verso: Signed and numbered 177.

---

35 PIERRE GAUVREAU (Canadian, b. 1922). ***The City in Turmoil,*** 1982. Acrylic on canvas. 32" x 32". Signed and dated vertically l/r. *N09.435. Stolen from a gallery in Toronto, Ont., Canada during a predawn burglary on September 27, 2009. See item nos. 46 and 47 below.

---

*The following three paintings were stolen from a private residence in Kiev, The Ukraine on March 23, 2009. *L09.535:*

36 DAVID DAVIDOVICH BURLIUK (Russian, 1882-1967). ***Russian Peasants in Landscape,*** 1942. Oil and varnish. 23.0 x 30.5 cm. Signed l/r: Burliuk.

**Numbering for the year 2009 Cumulative Index of Stolen Art began with Vol. 11, no. 1.*

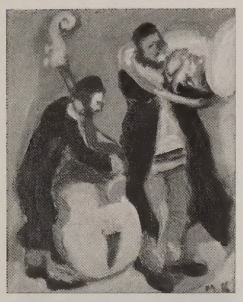
32

33

34

35

36

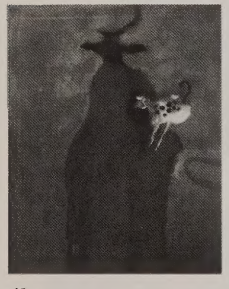


37

38

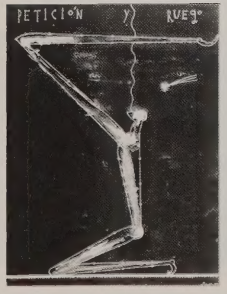
39

40



41

43



44

45

37 MANE-KATZ (Ukrainian/French, 1894-1962). ***Two Musicians.*** Oil on canvas. 27.0 x 22.5 cm. Signed l/r: M.K. Signed in full on verso.

38 VASILIY VASILIYEVICH ROZHDESTVENSKY (Russian, 1884-1963). ***Still Life,*** 1937. Oil on canvas, 46.5 x 33.5 cm.

The following paintings by ELMAR ROJAS *(Guatemalan, b. 1938) were stolen along with item no. 44 below from a gallery booth at an art fair in Miami Beach, FL in January 2007. *N09.341:*

39 ***The Romantic,*** 2000. Oil on canvas. 32 x 27.5 cm.

40 ***The Absolute,*** 2000. Oil on canvas. 35 x 28 cm.

41 ***The Trainer,*** 2000. Oil on canvas. 32 x 26 cm.

42 ***The Dreamer,*** 2000. Oil on canvas. See color photo on inside back cover.

43 ***Visit the Strange,*** 2000. Oil on canvas. 43 x 31 cm.

---

44 JOSE BEDIA (Cuban, b. 1959). ***I Pray and Request,*** 1997. Acrylic on canvas. 41 x 30 cm. *N09.341. See also items 39-43 above.

45 ROSALYN DREXLER (American, b. 1926). ***Men and Machines #2.*** Acrylic on canvas. 50" x 40". A realistic depiction of three men, dressed in business suits, bending over and examining a machine. *N08.402. Stolen from an exhibition in Brooklyn, NY on November 1, 1975.

WORKS ON PAPER

The following two works by PIERRE GAUVREAU *(Canadian, b. 1922) were stolen from a gallery in Toronto, Ont., Canada during a predawn burglary on September 27, 2009. *N09.435. See also item no. 35 above:*

46 ***Ballad for John Wayne,*** 1981. Acrylic on paper. 29" x 41". Signed and dated l/r.

47 ***Night Stuck Between Daylight,*** 1980. Acrylic on paper. 29" x 41". Signed and dated l/l.

The following works on paper, said to be by JOAN MIRÓ *(Spanish, 1893-1983), were stolen from a rental residence in Pebble Beach, CA on September 25, 2009. *N09.438. See also Missing item numbers 30-32 below:*

48 ***Abstract.***

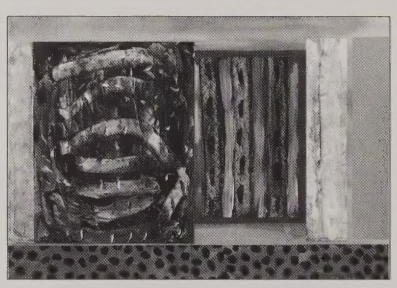
49 ***Abstract.***

PRINTS, LITHOS

50 EDVARD MUNCH (Norwegian, 1863-1944). ***History.*** Lithograph. Hand-colored by the artist. Stolen from a gallery in Oslo, Norway on October 12, 2009. Thieves smashed a window and grabbed the work.

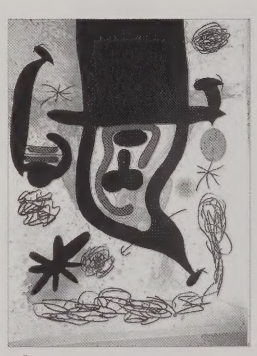
PHOTOGRAPHS

51 STEPHEN SHORE (American, b. 1947). ***Photograph Framed, 2000.*** 51 x 60 cm. Verso: Signature, title, and ed. no. 4/8. *L09.519. Stolen on July 13, 2006 while on loan to a museum exhibition in Celle, Germany.



46

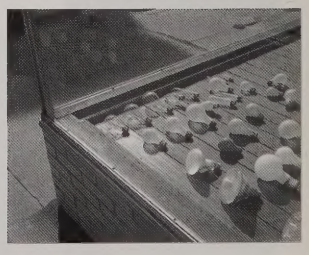
47



48

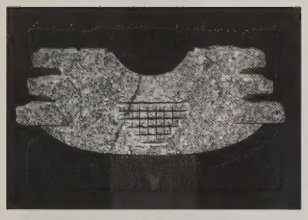
49

50



51

52



53

54

55

56

57

SCULPTURE

52 JASON MEADOWS (American, b. 1972). One element of the sculpture ***Deadheads,*** 2007. Bronze. H: 15"; W: 11"; D: 8". *N09.307. Stolen in transit in Brooklyn, NY on June 19, 2009.

53 RADE VILOTIJEVEC (American, contemporary). ***Granite Layers,*** 2000. Granite. H" 10 ½". W: 25". D: 7 ½". *N09.336. Stolen from the garden of the Hopper House Art Center in Nyack, NY on June 26, 2009.

*The following statues were stolen from Miya ka Mandir temple in Himachal Pradesh, India on September 16, 2009. *L09.628. See also item no. 34 under "Missing" below:*

54 ***Religious object.*** Bronze.

55 ***Deity.*** Bronze.

56 ***Vishnu.*** Bronze.

DECORATIVE ARTS

Ivory

57 ***Pagoda or Shrine*** (Japanese, 19th century). Ivory. H: 51 cm. W: 24.1 cm. D: 17.7 cm. Cracked on lower back side. On base: Ink and paper label marked "Colonel Gascoigne"; inventory no. 7 856/68 written in ink. *L09.553. Stolen from a museum in West Yorkshire, England on May 28, 2009.

Silver

58 ***Seal Top Spoon*** (English, 17th century). Silver gilt. See color photo on inside back cover.

MISSING ART*

PAINTINGS

16 DANIEL GERHARTZ (American, b. 1965). ***Sonnets in the Sunlight,*** 2000. Oil on canvas. 20" x 24". *N09.382. Reported missing from a gallery in New Mexico on August 7, 2009.

17 DEMI (Cuban, contemporary). ***I Hear the Water Dreaming,*** 2008. Acrylic on canvas. 68" x 56". *N09.290. Reported missing from an exhibition at an art fair in Miami, FL on March 31, 2008.

The following paintings by ANDY WARHOL *(American, 1928-1987) were reported missing from the home of collector Richard Weisman in Beverly Hills, CA on September 3, 2009. *N09.422:*

18 ***Muhammad Ali,*** 1978. Silkscreen and polymer on canvas. See color photo on inside back cover.

19 ***O.J. Simpson,*** 1977. Silkscreen and polymer on canvas. 40" x 40". Signed on top overlap by artist and sitter. Inscribed on stretcher: Series B.

20 ***Chris Evert,*** 1977. Silkscreen and polymer on canvas. 40" x 40". Signed on top overlap by artist and sitter. Verso" labeled Series B(/)A.

21 ***Kareem Abdul-Jabbar,*** 1977. Silkscreen and polymer on canvas. 40" x 40". Signed on top overlap by artist and sitter. Inscribed: Series A-6. On bottom stretcher: Weisman Collection. Verso: Kunsthaus Zurich label.

22 ***Pele,*** 1977. Silkscreen and polymer on canvas. See color photo on inside back cover.

16

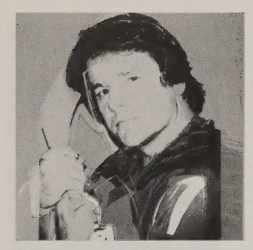
17

19

20

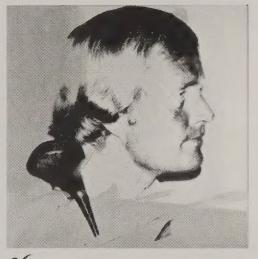
21

Numbering for the year 2009 Cumulative Index of Missing Art began with Vol. 11, no. 1.



23

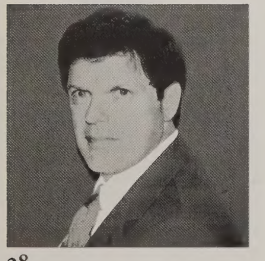
24



26

25

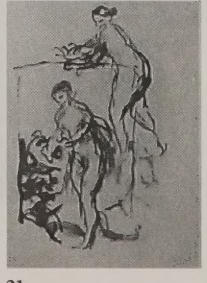
27



28

29

30



31

23 *Rod Gilbert,* 1977. Silkscreen and polymer on canvas. 40" x 40" Signed by artist and sitter.

24 *Dorothy Hamill,* 1977. Silkscreen and polymer on canvas. 40" x 40". Signed by artist and sitter. Series B.

25 *Tom Seaver,* 1977. Silkscreen and polymer on canvas. 40" x 40". Stamped verso: Warhol. Series D-3.

26 *Jack Nicklaus,* 1977. Silkscreen and polymer on canvas. 40" x 40". Verso: signed by the artist. Series C-2.

27 *Willie Shoemaker,* 1977. Silkscreen and polymer on canvas. 40" x 40". Stamped: Warhol. Series B.

28 *Portrait of Richard Weisman.* 1986. Silkscreen on canvas. 40" x 40". Signed verso.

DRAWINGS

29 NICOLAES MAES (Dutch, 1634-1693). ***Madonna and Child,*** 1650. Pen and wash on paper. 13.0 x 10.5 cm. l/l: stamp with a crown. Collector's mark: The Earl of Dalhousie(Lugt 717a). *L09.585. Reported missing in transit between Denmark and London, England on March 1, 2009.

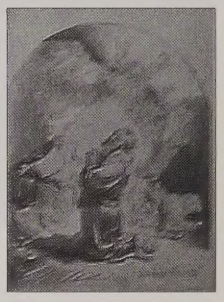
---

*The following works on paper, said to be by the following artists, were reported missing from a rental residence in Pebble Beach, CA on September 25, 2009. *N09.438. See also Stolen item nos. 48 and 49 above:*

30 VINCENT VAN GOGH (Dutch, 1853-1890). ***Unknown (Standing Woman).*** Drawing. Signed l/r: Vincent.

31 PIERRE-AUGUSTE RENOIR (French, 1841-1919). ***Unknown (Two Women).*** Drawing.

32 REMBRANDT HARMENSZ. VAN RIJN (Dutch, 1606-1669). *Unknown (Man Praying)*. Drawing or possibly print.



32

PHOTOGRAPHS

33 PATTY CHANG (American, b. 1972). *Leggs*, 1998. C-Print. 15.25" x 12". *N09.259. Reported missing from a New York gallery on January 1, 2006.

33

SCULPTURE

34 *Female Goddess* (Indian). Bronze. *L09.628. Reported missing from Miya ka Mandir temple in Himachal Pradesh, India on September 16, 2009. See stolen items 54-56 above.

34

RECOVERED ART*

PAINTINGS

*The following three paintings *L92.343 (R987) that were stolen from a private residence in Cirencestire, England on April 1, 1992 have been recovered:*

24 ANTOINE BOUVARD (French, 1870-1956). *Venetian Scene.* Oil 19" x 25".

24

25 ANTOINE BOUVARD (French, 1870-1956). *Venetian Canal Scene.* Oil. 19" x 25".

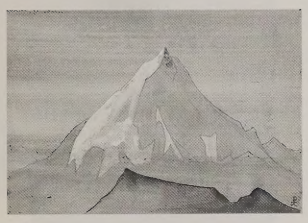
25

26 UNKNOWN. *Still Life* (Dutch). Oil. 23" x 18".

26

Numbering for the year 2009 Cumulative Index of Recovered Art began with Vol. 11, no. 1.

27



28

29

30

31

The following two paintings by NIKOLAJ KONSTANT ROERICH *(Russian, 1874-1947), stolen in June 2009 from the Nicholas Roerich Museum in New York, NY (*N09.356), have been recovered:*

27 ***Talung Monastery,*** 1928. Tempera and oil on canvas mounted on cardboard. 12 ½" X 16 ¼". Museum inv. no. 703054. Stolen on June 28, 2009. Recovered on August 17, 2009 after being returned via U.S. mail.

28 ***Himalayas,*** 1934. Tempera and pencil on paper. 10" x 14 ¼". Museum inv. no. 700153. Stolen on June 24, 2009. Recovered in early September 2009 after being offered for sale to undercover police.

---

29 GRANVILLE REDMOND (American, 1871-1935). ***Seascape at Twilight.*** Oil on masonite. 16" x 20". *N07.047. Stolen from a gallery in Los Angeles, CA sometime between July 2006 and February 2007. Recovered by the LAPD with the help of the ALR in 2009 after the thief sold the painting to a California dealer.

30 PIERRE-AUGUSTE RENOIR (French, 1841-1919). ***Mythological Scene.*** Oil on canvas. 28 x 30 cm. *L01.646. Stolen from a church in Rome, Italy on March 9, 1983. Recovered by the Italian Carabinieri in Venice or Treviso in June 2009.

31 JEAN PAUL RIOPELLE (Canadian, 1923-2002). ***Abstract.*** Oil on canvas. 50 x 65 cm. Signed l/r. *N93.334. Stolen from a gallery in Montreal, Quebec on March 28, 1993. Recovered by Canadian police in 2009.

32 EDWIN LORD WEEKS (American, 1849-1903). ***The Grand Vizier (Arabian holyman on horse with servant).*** Oil on canvas. 19 ¾" x 23 ½". Signed l/l. *N00.002 (R1126). Stolen from a private residence in Great Neck, NY on January 1, 1999. Recovered with the help of the ALR in May 2009.

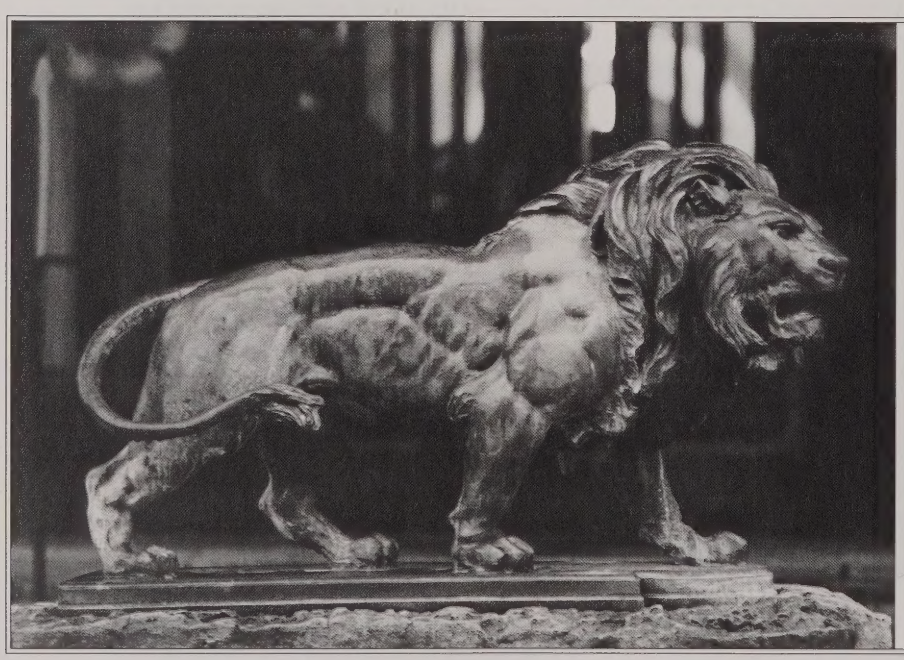
32

ICONS

33 *Our Lady of Kazan* (Russian, 1894). Wood covered with silver decorated with polychrome cloisonné enamel. (See *IFAR Journal,* Vol. 9, no. 1, p. 53, item 38.) One of 221 items reported stolen from the State Hermitage Museum, St. Petersburg, Russia, during a routine inventory check in late July 2006. The thefts were perpetrated over a period of years with the help of a now-deceased museum curator. St. Petersburg police recovered the icon from an antiques dealer on October 23, 2009. To date, 35 of the stolen items have been recovered.

33

ADVERTISEMENT



STILL MISSING

EDWARD CLARK POTTER
(1857-1923)

"Leo the Lion," circa 1920.
Bronze. Approx. 3 ft. x 4 ft. x 2 ft.
*N93.220.1.

Stolen from a golf club in Mamaroneck, NY on April 26, 1993.

If you have information, please contact:

Colin A. Burns, tel: (914) 698-8400

30

31

42

58

22

18

STOLEN ART

30 **RENÉ MAGRITTE** (Belgian, 1898-1967). *Olympia,* 1948. Oil on canvas. 60 x 80 cm. *L09.645. Stolen during an armed robbery from the René Magritte Museum in Brussels, Belgium on September 24, 2009. The painting might have been damaged when the robbers smashed the protective glass.

31 **EDWIN HENRY LANDSEER** (Scottish, 1802-1873). *West End Fair (Monkeys and Dogs Performing on a Stage).* Oil on board. 10 ¼" x 14". Inscribed l/r: West End Fair. *L09.402. Stolen from a private residence in Edinburgh, Scotland on May 1, 2009.

42 **ELMER ROJAS** (Guatemalan, b. 1938). *The Dreamer,* 2000. Oil on canvas. 37 x 27 cm. *N09.341. Stolen from a gallery booth at an art fair in Miami Beach, FL in January 2007. See also item nos. 39-41 and 43 on p. 33.

58 *Seal Top Spoon* (English, 17th century). Silver gilt. H: 17.4 cm. *L09.574. One of several spoons stolen from a museum in Devon, England on July 31, 2009.

MISSING ART

The following two paintings by **ANDY WARHOL** (American, 1928-1987) were reported missing from the home of collector Richard Weisman in Beverly Hills, CA on September 3, 2009. *N09.422. See also item nos. 19-21 and 23-28 on p. 36-37:

18 *Muhammad Ali,* 1978. Silkscreen and polymer on canvas. 40" x 40". Verso: Signed by the sitter. On left overlap: "I certify that this is an original painting by Andy Warhol completed by him in 1978 Frederick Hughes."

22 *Pele,* 1977. Silkscreen and polymer on canvas. 40" x 40". Verso: signed by artist and sitter. With a paper hangtag inscribed: [Pele] Series B RW 53.

INVITATION TO JOIN AND SUPPORT IFAR

(IFAR IS A 501 (C) (3) NOT-FOR-PROFIT ORGANIZATION)

SUBSCRIPTION INFORMATION

SUBSCRIBER $75 (PLUS $20.00 MAILING OUTSIDE U.S.)
One-year subscription to *IFAR Journal,* notice of events.

ASSOCIATE $100 (PLUS $20.00 MAILING OUTSIDE U.S.)
One-year subscription to *IFAR Journal,* notice of events, and complimentary admission for one to an *IFAR Evening.*

MEMBERSHIP/SUPPORT

All membership contributions are tax-deductible to the extent permitted by law.

Partner:	Individual $250	Corporate $1,000
Sustainer:	Individual $500	Corporate $2,500
Patron:	Individual $1,000	Corporate $5,000
Conservator:	Individual $2,500	Corporate $7,500
Benefactor:	Individual $5,000	Corporate $10,000

Please make checks in U.S. dollars payable to IFAR

NAME _____

ADDRESS _____

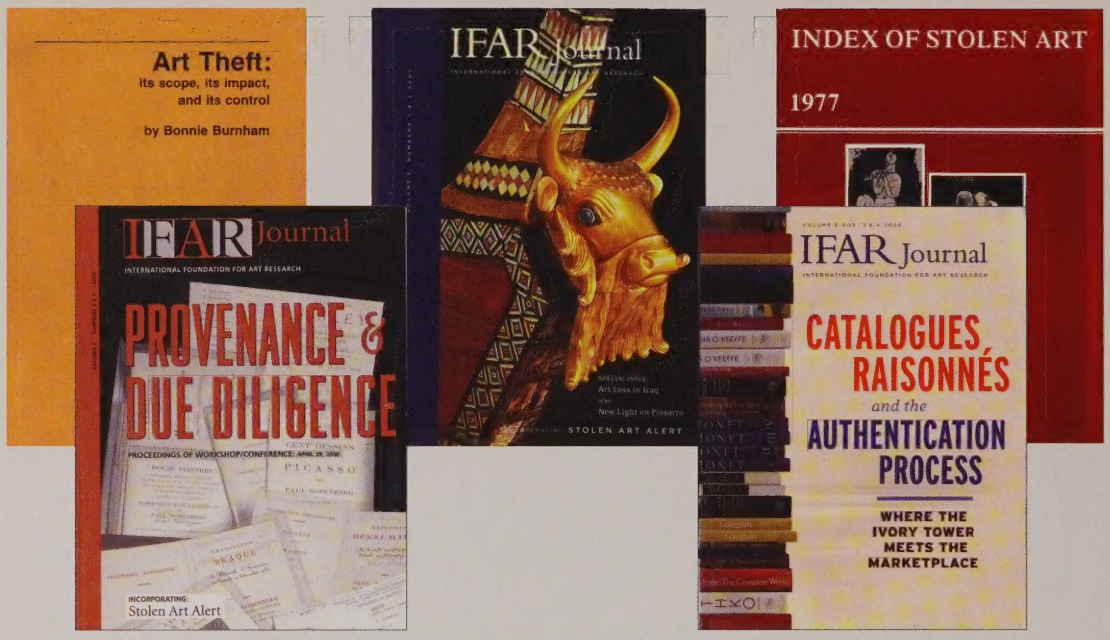
CITY, STATE, ZIP _____

_____

TELEPHONE _____

INTERNATIONAL FOUNDATION FOR ART RESEARCH, 500 FIFTH AVENUE, SUITE 935, NEW YORK, NY 10110

©2009 IFAR, Inc.



THE INTERNATIONAL FOUNDATION FOR ART RESEARCH (IFAR), established in 1969, is a 501 (c)(3) not-for-profit educational and research organization dedicated to integrity in the visual arts. IFAR offers impartial and authoritative information on authenticity, ownership, theft, and other artistic, legal, and ethical issues concerning art objects. IFAR serves as a bridge between the public and the scholarly and commercial art communities. We publish the quarterly *IFAR Journal*, organize public programs and conferences, offer an Art Authentication Research Service, provide a forum for discussion and serve as an information resource. We invite you to join our organization and help support our activities.